PAPERS

RELATIVE TO THE

WORKING OF THE NATIVE LAND COURT ACTS,

AND APPENDICES RELATING THERETO.

PRESENTED TO THE HOUSE OF REPRESENTATIVES BY COMMAND OF HIS EXCELLENCY.

WELLINGTON.

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1871.

PAPERS RELATIVE TO THE WORKING OF THE NATIVE LAND COURT ACTS.

No. 1.

The Hon. Colonel HAULTAIN to the Hon. D. McLEAN.

SIR,— Wellington, 18th July, 1871.

With reference to your letter (A. No. 92) of the 13th February, 1871, requesting me to procure information with regard to the working of the Native Lands Acts, and to furnish an impartial report embracing facts respecting the operation of the Acts, including the surveys and other expenses incidental thereto—the alienation of land by the Native owners—and the expenses to which the Natives are subjected in establishing their title, I have the honor to inform you, that I have minutely discussed these matters with such of the principal chiefs as I could meet at Auckland and Napier, and have communicated by letter with others who were thought most competent to express the intelligent opinion of their people. I have also conferred with a number of official personages, and with some of those Europeans who, from their calling and experience, or from their well-known sympathy towards the Native race, are qualified and entitled to express opinions in all matters connected with them. Through the courtesy of Mr. Fenton, the Chief Judge of the Native Land Court, I have had access to all the records of that office, and have received the readiest assistance from him in prosecuting my inquiries. I have procured from him various returns necessary to show the working and effects of the Acts, and I have consulted various other official documents (including Sir William Martin's and Dr. Shortland's recent Memoranda) bearing upon the subject. The principal portion of these materials are attached as an Appendix to this Report, and extracts from Parliamentary Papers already published are included for convenience of reference; and I now proceed to summarize the information I have collected, and to offer suggestions for the remedy of those defects that are most apparent and pressing.

As comparisons will be made between the past and present systems of acquiring their surplus lands from the Natives, it is necessary that I should briefly refer to the circumstances which led to the abandonment of the old policy, under which the Government alone could lawfully deal with the Natives for the acquisition and occupation of such lands as they wished to alienate, and to the adoption—experimentally in 1862, and practically in 1865—of those laws which made provision for individualizing and fixing the titles of Native lands, waived the Crown's right of pre-emption, and empowered the owners "to dispose of their estate or interest to any persons whomsoever."

The old land-purchase system had, up to a certain period, worked well; and although there had been, at various times, and on various grounds, objections raised and threats made by turbulent and dissatisfied Natives, with respect to some of the sales that had taken place, yet, except in one unfortunate instance—the blame of which, if any, could not be attached to the Department—no serious troubles had ensued, the differences were ultimately arranged, and the engagements were respected, and nearly six million acres of land in the North Island were purchased at an average cost of not more than one shilling an acre. But the King movement amongst the Natives, and the formation of the Land League, imposed serious hindrances to further acquisition of land; and amongst the friendly tribes there was a desire for a change of system, an impression that higher prices would be obtained from private persons, and an expectation amongst the commoners of those tribes that the individualization of title would remedy a grievance which they had keenly felt, though they had quietly submitted to it, namely, the appropriation by the chiefs of the greater part of the proceeds of the sales of their common property. With the colonists there was an impatience to see the country more freely opened to private enterprise—with some there was a recollection of the advantages that had been gained when the Crown's right of pre-emption had been waived by Governor Fitzroy—and with others a wish to free the Natives from all special restrictions, and a benevolent desire to break down those communistic customs which obstructed civilization, and prevented their social improvement. Then there was the Waitara war. And there had been exhibited, in some parts of the North Island, a settled determination to deal directly with the Natives for the lease of their lands, which was not only illegal, but prevented the purchase of lands that were required for colonization; and no Government had been able to enforce obedience to the law, and it was well that such an anomaly should be wiped out.

These causes and influences prevailed, the Crown surrendered its interest in the landed estate of the North Island, and the new system was fairly started in 1865. Since that time, and up to the end of last year, the Judges of the Native Land Court have heard 3,489 applications for investigation of title in the North Island, and have ordered certificates or Crown grants in 2,619 cases for an area of more than 2,400,000 acres.

What has been the effect of the operation of this new system? And have both Europeans and Natives realized the benefits that were expected to flow from it?

There have been, as in previous years, cases where the decisions of the Court have been disputed, and threats of violence and resistance to occupation have been uttered, but no serious troubles have hitherto ensued; and the dissatisfied are aware that turbulence on their part will not disturb the titles given by the Court. The general principle of a Court for the judicial investigation and determination of titles is almost universally accepted as satisfactory; but there have been serious defects in the Acts, which prevented the Natives from reaping all the advantages they expected, have opened the door to fraud and chicanery, and have caused much dissatisfaction amongst the sufferers. These defects have been largely modified by subsequent legislation, but they urgently require still further amendment.

There is scarcely a Native that I have examined who has expressed a desire to see the Court abolished or materially altered in its constitution. It is not to the giving of titles they object, but to the manner in which the Crown grants are prepared, which enables a few of those interested to defraud the others. The impartiality and ability of the Judges have been unquestioned. Out of the 2,619 titles that have been ordered by the Court, the instances in which their decisions have been seriously disputed are, so far as I have been able to ascertain, quite exceptional. It is to be expected that there will be some passing dissatisfaction in the minds of the losing parties, and an inclination to resist the law amongst those who have not been trained to its unquestioned acceptance; but up to the 30th December, 1870, there had been but thirty-five applications for rehearing, six only of which had been granted, and of these six, in only two cases have the previous judgments been reversed.

Going over the statements of the Native chiefs (the majority of whom, I must remark, are chiefly from the northern parts of the Island), I find the following opinions on the subject of the Court:—Tamati Waka Nene "likes the Native Land Court very well." Hemi Tautari says, "The Native Land Court has worked satisfactorily in the Bay of Islands up to the present time. I see no faults in the system. The only advantage of the old plan was that the Government bought all the bad land, which private individuals will not do." Henry Mohi Tawhai writes:—"The Native Lands Court: it is good exceedingly; through this we are admitted into the chief works of the Government." Eru Nehuru, "Approves of the Native Land Court, because it individualizes titles, and then no one can deprive the owner of his land." Wiremu Pomare says, "The Maoris who understand English customs approve of the Native Land Court." Te Wheoro wishes for a system of arbitration, instead of the Court; but he was then smarting at the loss of the "Aroha" case, which had just been decided against him. Paul Tuhaere "Prefers the Court as it is." Wiremu Patene says, "The Native Land Court is generally approved of by the Maoris. It is a good thing." W. Hikairo "Makes no objection to the Court, but proposes an elaborate plan with regard to applications for investigation of claims, and for settling disputes out of Court." Major Kemp says, "There is much trouble and confusion about the Land Court. * * * We do not condemn the old Court; but we are anxious to have some alterations." Harawera Tatere says, "The Natives were better off under the old system of purchase by the Government." Henry Tomoana raises no objection to the Court, but points out the evils of the present system of Crown grants. The letter of Karaitiana (printed in the Appendix of 1869, A. No. 22) expresses great dissatisfaction with the action of the Court, because it enabled one or more grantees to alienate their interest to the detriment of others, or to sell their lands in opposition to the wish of the tribe; but he does not advocate the abolition of the Court. And the same complaints are made by many other Napier Natives, who have been, more or less, sufferers primarily by the dishonesty of their own people.

The chief grievances complained of are—1st. That the limitation of ten names to a Crown grant, and the giving grantees equal interests, have put it in their power to dispose of the property, or parts of it, without reference to other persons who were also more or less interested, which power has, in many instances, been exercised to the great detriment of those parties. 2nd. That, under the present system, the expenses of survey are enormous, and that the frequent sacrifice of property has been the consequence.

There are other minor defects which I will presently notice.

The weight of the first grievance has been felt most heavily in the Province of Napier, where much of the land is very valuable, where the Natives have acquired expensive habits, and crave the means of indulging them, and where the settlers have been ready to purchase all that the Natives would alienate.

The second grievance has been found to press chiefly in the northern part of the Island.

The Act of 1867 was intended to remedy the first, but it has not practically been effective. Strange to say, the Napier Natives, notwithstanding their experience, have not taken full advantage of the safeguards provided for them, and have registered their names in the Court as interested claimants, according to clause 17 of that Act, in only twelve blocks of some 42,000 acres. I attribute this chiefly to the ignorance of the mass of the Natives most concerned. They know nothing of the law, for they have never been instructed, and no translations of the Acts, or full information of their details, have ever been circulated amongst them. Even Henry Tomoana states he did not know till three years after the passing of the Act of 1867, that such a provision was in existence, and now he conceives its only object is to make the lands so treated inalienable except by lease. So that when they now wish to sell their lands, they will not register any names besides those of the grantees (in some instances only one name has been put in a grant), and when the Judge asks in the Court whether other parties are interested, there is no response. All concerned are anxious to facilitate the sale, and they will say nothing except to deceive the Judge. The framers of the Act of 1865 no doubt believed that the Natives would not fail to act honestly by each other; but the results of experience, and the statements of most of the Natives whom I have questioned on the point, prove that none can be trusted to do justice to his neighbour; and that where the law puts the property of others in his power, the Native is not to be depended upon, for he will not hesitate to take dishonest advantage of it. Numerous instances are given from different districts, in which the grantees of property in which many are interested have appropriated to themselves the whole or the greater part of the purchase money or rents, or have mortgaged the lands so deeply that, when sold, there was no residue to be divided amongst the outsiders. The Heretanga Block is a notorious case in point. It was sold for £16,000 or £17,000, and Henry Tomoana himself, who was one of the grantees, confesses that the whole money (except what went to Arihi) was only sufficient to defray expenses and to pay the debts of the grantees to shopkeepers and others, and that not a penny in cash was received by them, or by the hapus who were also interested. And even the grantees themselves did not derive equal advantages. Henry's debts, by his own account, were £4,000; but old Waka Kawatini (if he is to be believed) owed only £200, and, with his people, claims more than one-half of the block, and declared that he got no cash payment at all. The ease with which grantees can mortgage or transfer the land has induced merchants, storekeepers, and others, to give them large credit; and it is currently reported that unscrupulous and dishonest persons

have encouraged their extravagance and vices to get them into their debt, have charged exhorbitant prices for the goods they have supplied, and have taken advantage of their ignorance or intemperance to secure mortgages over the lands or portions of them; which was but a sure preliminary to transfer on their own terms. Henry Tomoana puts it forcibly: "The tradesman comes down on our heads like the monkey of a pile driver, which crushes us by its weight and force." What money or credit the chiefs could get was too often spent in riot and debauchery, and the consequence has been that some of the principal men have been impoverished, the tribes have been defrauded, and the land has gone without a fair equivalent. As Tareha mournfully said, "Rum, rum has dispossessed us." The Natives are greatly dissatisfied, and blame not in any way their own imprudence and dishonesty, but the operation of the law, and the cupidity of the pakeha. There is, however, no doubt that this part of the law requires prompt and speedy amendment.

When it was known in Napier that I was inquiring into the working of the Native Lands Acts, I was invited by various persons to listen to statements that would have inculpated others, but, as I could not have given the accused the opportunity of vindicating themselves, I have avoided recording anything of this nature that was not necessary to demonstrate the defects of the law. It is not denied that inequitable transactions have taken place, and a commission of inquiry would be desired by those who have clean hands, and would like to be cleared from the imputations that have been cast on purchasers in general; but it is to be considered whether any public or general advantage would be gained by such inquiry. The evil has partially cured itself; it is now difficult to induce some Napier Natives to put their names or marks to a piece of paper. They have suffered from their imprudence, and will not be so easily imposed upon again.

The Native Lands Frauds Prevention Act of last year is now in operation, and is stated to be working effectively; and although its action is not retrospective, the Supreme Court can take cognizance of cases of actual fraud, either at the instance of Government officials, or of the individuals aggrieved.

The reports of these transactions, and of the poverty and humiliation of great chiefs, such as Tareha and Hapuka, cannot but have been circulated through the country, and they have no doubt been triumphantly made use of by the King party to prove to the loyal tribes how little they can depend upon the justice and friendship of the Europeans. Even amongst the friendly tribes the alarm has been given, and, as Major Kemp reports, they have had a large meeting of chiefs from different parts of the country at Parenga, where they spent five days in discussing the subject, and are about to send a deputation to the General Assembly.

Efforts are being made also by those who have felt the evil, to prevent the further sales of the lands, by reserving them wherever they can, and by nominating as grantees only those who are known to be opposed to permanent alienation.

There has also been discontent at Napier, because the Act of 1869 does not give them full redress in the case of shares or interests in lands which have been sold by different grantees before the Act came into operation, and provided that these several interests should not be deemed equal.

It is difficult to interfere with past transactions without doing injustice to the European purchaser, whose dealings may have been in good faith, on the assumption that the law fixed the equality of the interests; but it seems to me, from Henry Tomoana's statement on this subject, that he does not understand that the restriction only applies where actual sale has taken place, and that the Act does allow retrospective action in cases of lease and mortgage; and this is another instance showing the necessity for instructing the Natives themselves more minutely as to the various provisions that have been enacted for the protection of their rights. The Act of 1869 has, I believe, the power of removing a great portion of the hardships of which he complains.

To remedy these defects, the proposition of the Chief Judge, as stated in his opinion given in Court on the 7th April, 1868, to issue no grant "that will not, on the face of it, disclose the names of all the persons who are shown to the Court by evidence to be the owners thereof" (the limit being ten names, and the land being subdivided until it is brought under this condition, and, as suggested by Sir William Martin, the prohibition of mortgage or sale of undivided shares) will meet the principal difficulties of the case. Several of the chiefs recommend it, and although it may be attended with some inconveniences, these are nothing as compared with the evils that exist and require prompt removal.

In the case of blocks of land to which the owners may wish to fix their title, without going immediately to the expense of subdivision, certificates as now provided by the section 43 of the Act of 1865 can be issued, and no such certificates should be alienable in any way whatever, except by sale to the Government or Superintendents of Provinces. And the lands held under such certificates should not be subject to local rates or any other taxation. This plan, although it may temporarily affect the transfer of interests, will help to restore the confidence of the Natives who are dissatisfied with the previous action of the law, and will diminish the desire which now prevails amongst those who have experienced past evils, to make absolutely inalienable larger tracts of land than they can ever advantageously make use of. The great difficulty of subdivision is the expense of survey, but where the Natives wish to sell, and the Europeans are ready to purchase, the necessary funds will be forthcoming.

Surveys.

The other grievance which has been seriously felt, and has caused a great deal of embarrassment and discontent, arises from the practice of employing private licensed surveyors, to make the necessary surveys of the land before it can be passed through the Court. In the Province of Napier, where purchasers are numerous, the Native has had no difficulty in procuring funds to pay for survey of lands that he did not intend to sell, or the intending purchaser, in case of those that he wished to acquire, has found the money, and has seen that the whole work was properly and economically performed. But, in the Province of Auckland, where there is no demand for much of the land that has received a Crown title, and where the Natives are poor, this system works very badly, and has been the means of much trouble both to the Natives and surveyors. The uncertainty of speedy payment causes the surveyors to demand excessive prices for their work. In some instances they have been kept out

of their moneys for years, and have been nearly ruined by the delay, or have been obliged to sell their claims to money lenders at an enormous discount. On the other hand, the Natives have been put to the expense of having their lands surveyed twice or three times over, either from work having been insufficiently done, and the survey having to be again made before the claim could be entertained by the Court, or from opposing claimants each employing their own surveyor for the same or part of the same block of land; because they would not trust their opponent's agent to lay down the boundaries that they insisted on. And the surveyors are so numerous and anxious for employment, that they will undertake any work, believing that payment will be made sooner or later, as their claim remains a lien on the land. It is the interest of the Licensed Interpreter or Native Agent, who receives from the surveyor 10 per cent. on his receipts, to encourage and urge the Natives to put their lands through the Court. The latter are told, or believe that the money need not be paid till the land has been sold, and in certain instances have made that stipulation, with a determination not to sell, and then defraud the surveyor. A loose agreement is drawn up and the work is done, but the land does not sell, or is not passed through the Court; the surveyor, impatient for his money, having perhaps no other means of livelihood, urges his demand, and the Native will either mortgage or sell his land at any sacrifice to avoid further annoyance, or will give a promissory note; which, not being paid, he is brought into the Supreme Court and judgment given against him. If he holds lands under Crown grant, or has other property, it is seized and probably sold far below its value. A maximum charge having been made, and the expenses of the Supreme Court being very heavy, when the Native does at last pay, he finds the amount two or three times as much as a European would have been charged for the same work. If he would have applied to the Native Land Court, the bill would have been taxed and a reasonable sum adjudged without the heavy fees of the other Court. But he does not know the law, and the surveyor prefers the Supreme Court, if he can get there.

The letters of Messrs. Turner and Jordan, and other documents which I give in the Appendix, will show the existance of all these evils; but I specially quote the case of Ngakapa Whanaunga as being one of great hardship, and the price for which his land was sold at auction was so absurdly low that, if possible, some steps should be taken to cancel the sale. Ngakapa had his lands surveyed, expecting that an arrangement with a European would enable him to pay for the work; but this arrangement was not carried out, and he gave a promissory note which he could not meet. He was sued in the Supreme Court for £560, and expenses of different kinds subsequently swelled the debt to over £1,000. He raised £400 on mortgage, and gave security for the remainder on an allotment in the Town of Shortland, on which were erected the Bank of Australasia, the old Union Bank, and other buildings, for which he was receiving a rental of £87 3s. per annum, and on mortgage, of which he had been offered a loan of £400, and these were shortly after sold by auction, under writ from the Court, for £35! And he had to dispose of a cutter and other property to meet the balance still due. No wonder the Natives are dissatisfied with English law.

The necessity for the attendance of surveyors in Court to prove surveys is also a grievance to both parties, and causes much unnecessary expense. In one case a Native, named Aherata Mihinui, had to pay £10 for a survey of eleven acres, and £1 1s. a day for eighteen days to the surveyor for attendance at Court, which, with £4 4s. for Court fees, made up a sum of £43 for procuring a title for eleven acres. In December, 1870, several surveyors were detained at Tauranga for nearly a fortnight, living at inns and incurring heavy expense, because the Court would not take their evidence out of turn, though the whole of it might have been given in the course of an afternoon.

I believe that the great expense of surveys, and the consequent evils, may be satisfactorily and entirely avoided, if the Government will take the work into their own hands, and abolish the present system of private surveying. There is already an organized department, with an efficient staff, capable of undertaking and properly conducting the whole business, with such additional surveyors as the amount of work may require from time to time, and the extra expenses, if not fully met by the payments from the Natives, would be a charge against the Provinces, which ought not to object to pay for the extension of a department which has, within the last five years, cost little over £10,000, and has put into their possession maps of survey for more than two and a half million acres of land, the cost of which has been paid for entirely by the Natives, and the value of which is estimated, by Mr. Heale, at nearly £100,000.

In 1865, when the Native Lands Act first came into operation, the Government could not have carried on any systematic survey, as the Natives would not have permitted a chain or other instrument on their lands, but this difficulty now hardly exists, and the work will be better and more regularly performed by a Government Department; and by insisting on survey in every instance before cases can be brought into Court, the Government will have in their own hands a means of regulating its business, should motives of policy ever require their interference.

Translation of Acts.

I will now detail some minor objections that have been made to other parts of the system, and would first refer to the necessity of instructing the Natives more fully in the various laws that have been made for guarding their rights and interests, and for protecting them from imposition and injustice. For this purpose a mere translation of the Acts in their technical phraseology would be of little assistance; but a summary digest, such as that in respect to Criminal Law by Sir W. Martin, should be prepared, and with the Acts, be largely circulated among them. And not only should these enactments be explained to them, but they should be clearly informed of the corollaries that will certainly follow the Crown titles for their lands, such as road rates, land taxes, liabilities for fencing, &c., matters of which at the present time they have little or no conception, for it has not been the special duty or the interest of any one to enlighten them, but which will surely come upon them some day; and, as they seldom have funds, they will be compelled to sacrifice some of their lands to meet these demands; and, if they are not forewarned and prepared for this, there will arise dissatisfaction and bitterness against the Government and Legislature, whom they will accuse of having cruelly deceived them.

Dr. Shortland and others have recommended that each Judge should have a district assigned to him, within which his work should be confined; and amongst the chief reasons in favour of such a plan, it has been urged that the Judges would thereby acquire valuable political influence among the Natives of the district and more knowledge in land matters than any of themselves; and, also, that they would know the character of the people better, and whether their statements could be relied on. But I think that the objections to this plan have greater weight. If the Judge is to possess political influence, he would be bound to exercise it in the direction approved by the Government of the day, who only can determine what is required for the preservation of peace and for the civilization and well-being of the Maoris, and thus he would become a Government agent, which is not the position a Judge should occupy. His functions should be simply judicial, for he must be guided in his judgments only by strict evidence; and if he does not keep aloof from the Natives who have claims before the Court, it will be almost impossible for him to preserve his character for impartiality. The Maoris are a peculiarly suspicious race, and it is difficult to prevent them from discussing their claims, if they have access to the Judge. The Ngatihaua objected to Mr. Fenton's sitting on the "Aroha" case, because he had resided so much amongst them, and knew them so well; and one of the principal chiefs of the Ngatimaru complained that he had seen him talking to Te Raihi, a chief of the opposite party, whilst the case was going on, and though told that he was not sitting on the case, the other replied that that was no matter, that he was the chief of the Court, and should not listen to statements made privately. The Arawas also objected to Mr. Smith's sitting in a Court held in their country, as they said he knew too much about the people; and Hemi Tautari, though content with his own Judge, says "that many Natives would prefer a stranger to investigate their claims." So that, on the whole, I believe the present system had better be maintained.

Assessors.

There is an opinion amongst many of the Natives that I have questioned, that the Assessors are not of much use in Court, that they are too much in awe of the Judge, and do not exercise any influence on the judgments, that they "sit like dummies," or are like the pictures in a photographer's window, only there "to be looked at;" another, who had recently lost his claim, says "they are so partial, and are deceivers." One of the grounds on which application was made for rehearing of the Waihi case, was that the Assessor had fraternized with the other side, and the Native counsel, to whom the matter was referred, recommended a rehearing, because, amongst other things, "the Native Assessor was too intimate" with one of the parties. But scarcely one of the objectors would like to see the Assessors excluded—on the contrary, I gather that there is a craving desire amongst the Natives of intelligence for more general employment in the administration of those laws that apply to themselves, though they feel that their ignorance unfits them to be associated with European officials. Can no steps be taken to train the rising generation so that they may take part in their own government? Instead of diminishing the numbers or duties of the Assessors, I think that it would be an advantage if, in important and difficult cases, such as the "Aroha" or "Manawatu," their numbers were increased to five or more, and the unanimous assent of Judges and Assessors should still be required. Juries can be dispensed with altogether; there has been but one instance in which a jury has been demanded, and then it did not give any satisfaction to either party.

Interpreters.

Complaints are made of the conduct of some of the Licensed Interpreters, and of the expense they entail, particularly in contested cases. They are said to have deceived their employers; to have procured signatures to deeds in an improper manner; to have urged the survey of lands, and the bringing forward of unfounded claims for their own advantage; to have prompted witnesses to state falsehoods; to have interfered in opposition to the wishes of the owners, and prevented lands from being reserved, &c. But the services of agents speaking both languages cannot be dispensed with. There are men amongst them of high character and repute, and if more were licensed, the Natives would fall into the hands of some of the inferior class, and fare worse. But the Judges should have power to cancel, or at least summarily to suspend, the licenses of those found to have been concerned in improper transactions. Their charges are sometimes very high. In the rehearing of the Aroha case, Te Wheoro states that the Ngatihaua expenses amounted to £575, of which upwards of £300 was claimed by the Interpreter. But the Court can tax their bills, if the Natives only knew that they had such protection.

English Counsel.

The Natives are almost universally opposed to the employment of English counsel in contested cases. They say that these know nothing of Maori law and custom, and only protract the sittings and increase the expenses of the Court. If one side employs them, the other must do the same; but they would like to see them altogether excluded from practising in the Court.

Fees and Expenses.

The Natives, of course, wish to avoid paying the fees of the Court, but these do not add much to the expense of a suit, unless the case is a very protracted one. The total amount charged as Court fees for the 3,607 cases that have been heard amount to £6,085 10s. 8d., of which £3,517 2s. was in arrears on the 30th December, 1870. But the expenses outside the fees of the Court are often very heavy. In the Aroha rehearing, the expenses on the Ngatihaua—the losing side—were, as already stated, £575, and those of the Ngatimaru could scarcely have been less. In the case of the Owharoa Block at Ohinemuri, of 155 acres, the agent's charges against the Ngatikoe were £70 7s., chiefly for payment of witnesses; but I was informed by the agent that he had little hopes of getting the money, for as that party had lost the suit, there was no land to give as security.

Applications for Hearing.

It has been objected that the power granted to any one Native of demanding a hearing of his claim to be interested in land, has given rise to the following abuses;—

First, that unfounded claims have been put forward; and, second, that applications have been made by single individuals, and the case called on for hearing, without the assent, or even the knowlege, of other persons or of *hapus* most concerned. It is important that every Native should have the privilege of individualizing his title to land, if he wishes it, and can do so without detriment to others; but to prevent these complaints, application might be transmitted through the Magistrates of districts, and the *Gazettes* containing the notices should be largely and promptly circulated. And if survey has to be made before a hearing, it is but in very rare instances that these objections can occur, as few persons will go to the expense of survey unless they consider their claim to be good, and surveyors cannot go on to the land without being seen.

That the Judges are very careful to reject doubtful claims, is proved by the fact of their having dismissed 1,288 cases during the period that the Acts have been in operation.

The Government should also have power to direct the Courts to suspend the hearing or decision of any particular cases. At present, if it is desirable to interfere, they must proclaim the Acts as suspended in a whole district, which is a clumsy and inconvenient arrangement.

Reserves.

The 20th clause of the Act of 1867 provides that, "it shall be the duty of the Court in every case whatever, in which certificate of title is ordered, to inquire and take evidence as to the propriety of placing restrictions on the alienability of the land."

The letter of Mr. Fenton, of the 3rd October 1870, shows how difficult it is for the Court to ascertain what "it is the interest or the wish of the parties concerned to keep concealed."

The Natives themselves cannot be depended on. Sometimes, as in the case of Henry Tomoana and others, they wish to put large tracts of land for ever out of the reach of Europeans, which are not necessary for their own wants. On the other hand, Mr. Mackay, in a letter to the *Auckland Evening News*, of April, 1871, states that "Te Hira was so embittered against the Court and Government, on account of the reservation of the Waihi Block that had been granted to him, that he stopped the Tauranga mail in consequence."

There has been no fear hitherto of the Natives as a body denuding themselves of too much land There are still 11,000,000 or 12,000,000 of acres in the North Island in the hands of the Natives, and 600,000 acres have already been made inalienable by the Native Land Court, and a great deal of this reserve is of superior quality. The Maoris have always been loth to part with their fertile land, and it is chiefly by confiscation that we have obtained any large tracts of really good land.

Judge Manning states in his report of 24th June, 1867, "That the average value of alienable land may be five shillings an acre, but that what the Natives have made inalienable, is worth at least five times as much." He adds, that "at Hokianga, not twenty acres of first rate land has been sold, and that consequently in that large and fertile district, there is not one settler engaged in farming, or who has land capable of being cultivated properly." Even in the Napier District, where so much land has been sold, at least 500,000 acres are still in the hands of the Natives.

But as before stated, there are cases, and not only in Napier, but in other places, where Native chiefs have been almost pauperized, having in their improvidence and extravagance made away with the greater part of their landed interests. And it is necessary that the spread of such an evil should be checked, but this is more the duty, and within the sphere of the Commissioner or Trustee of Native Reserves, than of the Judges of the Court.

It is impossible to obtain from the Natives, any definite opinion as to the minimum quantity of land that should be reserved for each individual, and it must depend much on its quality and locality. But it would be no bad rule to lay down, that each Maori chief should have amply sufficient to maintain himself like an English gentleman, supposing him to put forth the necessary industry and energy for its cultivation.

Whether it would be to the advantage of the whole body of Natives, that they should have so much land reserved for their use, as will eventually enable them to live in competence and ease, without exertion or stimulus to healthy industry; whether it is for their interests, that the reserves should be scattered over the country, so that they might dwell amongst the colonists; or whether, as has been advocated by many of those most interested in their welfare, they should be located by themselves in separate blocks or districts, and isolated as much as possible from contact with Europeans, are questions on which the most opposite views are held by those who are considered qualified to form opinions. But I am not invited to discuss them, though I would express my belief, that the last plan would be most fatal to the race.

I would, however, draw attention to the assent generally expressed by the Natives whose opinions I have recorded, that it would be desirable to reserve a portion of the proceeds of all sales of lands for the benefit of the sellers and of their children. Dr. Shortland recommends that one-half the purchase money should be so set apart. Sir George Grey proposed to give annuities to Native chiefs as part payment of their lands, and reserved payments have been provided for in many instances. Whatever money now comes into the hands of the Natives is almost invariably squandered and wasted (or worse) with little permanent or substantial advantage to the people. The extracts I have given in the Appendix show that this has been the case from the earliest days of the Colony, and I believe it remains the same to the present time,—their money is generally spent before they receive it.

If we are to save the Maori of the next generation, he must be educated, and enabled to take his place as a citizen of the Colony. And are not the means of commencing this now within reach? Reserves may be made both in money and in land for the special purpose of education, and the subject is engaging the earnest attention of some of the people themselves. Many of the

Natives of India go to England to be educated, and return to their own country to be physicians, ministers of religion, and advocates; and it is now the policy of their Government to employ all that are qualified, in the public departments. The Japanese and Chinese are seeking knowledge and education amongst the whites; the North American Indian and the Australian may be incapable of melioration; but are not the Maoris as intelligent and as capable of high education as any nation in the world?

Expense of the Courts.

The total expenses of the Native Land Court since the passing of the Act of 1865 up to the end of the last financial year were £29,225 9s. 9d., and the receipts for the same period were £17,625 3s., being an excess of expenditure over receipts of £11,600 4s. 8d., from which, however, may be deducted the sum of £3,517, the amount of fees of Court as yet unpaid by the Natives, but which remain a lien on the land; so that the cost to the Colony for the five years may be reckoned as little more than £8,000, and for this sum, 2,000,000 acres of Native land have been invested with a Crown title and opened for sale to the settlers.

The annual excess of expenditure has been reduced from £3,142 in 1865–66 to £293 in 1869–70; and as sales of land have lately increased, it may be expected that the balance will be on the other side for the current year.

I have not included the expense of the Survey Department, £10,497 for the five years, because I have already shown that the Provinces have acquired, by means of this department, maps of much greater value at the expense of the Natives.

Land Sales.

The sales of land by the Natives within these five years have not been so extensive as during corresponding periods under the old system. The settlers purchase only the better quality of soil, and will have nothing to do with a great deal of an inferior description, which the Government were compelled to take over when they acquired large tracts of country.

The money paid to the Natives for this smaller quantity has, however, been in excess of what they have been accustomed to receive. By the Registrars' of Deeds returns it appears that for 470,000 acres they have realized £162,844, an average of 6s. 6d. per acre; but a great deal of this money must have gone towards the expense of surveying the other 2,000,000 acres which have been passed through the Court.

In Hawke's Bay about 220,000 acres were sold for £87,012—about 8s. an acre.

In Wellington, 21,356 acres, £9,976—about 9s. 4d. an acre.

In Auckland, 228,559 acres, £65,856—about 5s. 9d. an acre.

The number of acres sold in Hawke's Bay is only an estimate based on the sales of the last fifteen months, as the registration returns from this Province do not give the acreage of land sold prior to 30th September, 1869, and none of these figures are offered as strictly accurate, for the returns are complicated by occasional variety of transactions for the same piece of land, and it is impossible to unravel them; but they are sufficiently correct for a general summary.

In the Province of Hawke's Bay I assume that there is not much Native land of good quality that is now for sale at anything like a reasonable price; but the Government have recently purchased 250,000 acres of land at the Seventy-Mile Bush for about £18,000—1s. 5d. an acre, and there have been, out of this, considerable reserves set apart for the sellers, which will be very valuable when the railway passes through the block. But in Auckland the market is glutted with Native land, and if the restrictions placed by the king over those districts where the *aukati* is enforced were removed, there would soon be large quantities of very valuable land passed through the Court and open for sale.

Of course all the country lands of this Province have been depreciated in value by the action of the Court. Even so long ago as 1867, Mr. Fenton, in his letter of the 11th July to the Native Minister, writes:—"Two years ago no one would have foreseen the price to which land has fallen in the Province of Auckland. Thus, Waka Kukutai's tribe have in vain been offering 40,000 acres, in one block, of the finest land in the Waikato, at 5s. per acre cash, or 6s. 6d. deferred payments extending over five years. A block in the North, called Waitaroto, cost 9d. an acre for survey, 1d. an acre for other expenses, and was offered for sale at 1s. per acre;" and prices have diminished since then, and yet only 230,000 acres out of 1,300,000 for which certificates have been ordered have been sold by the Natives. Very recently a block of 7,000 acres at the Bay of Islands, near Kiri Kiri, belonging to Mangonui, was sold for £300—about 8d. an acre; and large blocks, of several thousand acres, in Waikato and Kaipara have been parted with at prices varying from 1s. 6d. to 5s. per acre. 108,279 acres have been leased in the Province of Wellington for £4,465, and 434,167 acres for £8,970 per annum in the Province of Auckland. It is impossible to ascertain what rents are paid to the Natives in Hawke's Bay, as much of the land returned as leased has since been sold, and some of the lands still rented under former agreements have not been passed through the Court. £26,000 besides "accounts current" have been raised on mortgage, chiefly in Hawke's Bay and Auckland. I append lists of lands now in the hands of different land agents, with the prices that are asked, but, as a rule, these rates would be considerably reduced if a purchaser commenced negotiations.

In conclusion, I hope that it will be borne in mind that I do not submit this as a complete report of the various subjects on which I have touched.

My inquiries have been made chiefly in the North, and I have not been able to visit several important districts, and it would have taken months to have gathered from all sources the facts and opinions that would have fully demonstrated the operation of the Acts, and their effect upon the Native mind, in all parts of the Island; but this incompleteness is not of so much importance, as the reports of the Judges, of the Commissioner of Native Reserves and of those appointed under the Native Lands Frauds Prevention Act, the memoranda of Sir William Martin and Dr. Shortland, the opinions of the Native representatives, and of the deputations from several tribes who will be present during the session, will supplement the information that I have furnished if it is the intention of the Government to remit the subject for the consideration of the Legislature.

I have, &c.,

T. M. Haultain.

The Hon. the Native Minister.

No. 2.

Judge FENTON to the Hon. D. McLEAN.

SIR,— Wellington, 28th August, 1871.

Having observed, amongst the papers placed before Parliament this session, a paper of Sir W. Martin, enclosing a memorandum by Dr. Shortland, on the subject of the Native Lands Act, I have the honor to request your perusal of letters written to me by the Judges of the Court, in reply to one addressed to them requesting them to favour me with their observations on the past working of these Acts, and suggestions of amendments which it would be advisable to introduce into a Consolidating Act, which I understood it was the intention of Government to bring forward this session. I have not a copy of my letter here, but the replies to it sufficiently indicate the nature of my inquiries. Mr. Smith did not reply, having been prevented, as he has informed me, by illness. I should not have deemed it necessary to trouble you with these papers, which I obtained simply for my own information and assistance, did I not think that the singular theories of Dr. Shortland, amounting, as they do, to a re-establishment of the Native Protectorate in an aggravated form, might tend to influence the minds of men who have little practical acquaintance with the subject, and who might regard silence on my part as an acquiescence in the views propounded, or at least as an acknowledgment of the truth of the facts referred to as mischiefs to be remedied. On this latter and most important part of the question I can say but little, for these facts are very barely stated and the evils are described in a very meagre manner; but as far as I can gather from the memorandum of Dr. Shortland, which seems to have had a certain influence on the mind of Sir W. Martin, the mischiefs on which he enlarges are confined to the Province of Hawke's Bay, in which the area of land yet to be dealt with is inconsiderable, and his scheme would, in my judgment, as little avail to cure them in the past as it would to prevent them for the future.

As early as 1866 I stated my views, that where counter-claimants, claimants, and proposed lessees had all a direct pecuniary interest in preventing the minute subdivision of lands, it would be impossible for any Court to discover the ownership of these lands beyond such a point as would suffice to terminate all contest amongst the claimants themselves. I therefore never expected that the Act of 1866 or 1867 would stop the mischiefs to which they were directed, as they threw upon the Court a duty which it was quite incapable of performing; and so it has proved. Having once decided the class of claimants to which an estate belonged, the Court became powerless to discover more than these recognized claimants chose to disclose, as all opposition ceased. Sir W. Martin proposes to remedy this evil by carrying still further the plan which has already failed. He would reduce the Court to the position of a diplomatic negotiator first, and, having thus destroyed its standing as a judicial body, would place it on the Bench to act with authority,—an idea which entirely ignores the principles of human nature. The true remedy, in my mind, was the presence of some of the local officers of the Government to watch the Courts, and bring forward such matters as were, from immediate and very apparent pecuniary interests, concealed from the Court by parties.

Having failed to achieve this object by other means, when I had the honor of a seat in the Legislative Council I lost no time in introducing a Bill for the purpose. This Bill, as you know, passed the Council, but was lost in the House of Representatives, although taken up by the Government.

The Frauds Prevention Act of last session has done much, but I respectfully submit that it does not begin at a sufficiently early stage of the proceedings in the conversion of Native titles to land. Prevention is always easier than cure, and proper provisions made in grants would absolutely prevent the possibility of transactions which the officer appointed under that Act can only frustrate after money has been spent, and, possibly, something like equities have been created.

The objections to the present system which are urged by such men as Wi Tako, constitute, in my judgment, its greatest commendation. Shrewd men like him have not failed to observe that in the destruction of the communal system of holding land is involved the downfall of communal principles of the tribe, and the power of combination for objects of war or depredation. When a man is comfortably settled on his own farm, he is not ready to follow his chief in an agitation which promises nothing beyond a little excitement, and jeopardizes all he has got; and the feeling represented by Tako will doubtless spread as the power to give it any injurious operation will diminish. But for this very reason I think it just and politic that the Government should be furnished with authority to see that the old chiefs, whilst gradually losing one dignity, are invested with another. They should have sufficient land secured to them to render certain their status as gentlemen, though I should be sorry to see this principle extended to the whole race, as I understand Sir W. Martin desires shall be done. A very large number of the Maoris are, according to their customs, slaves, or entitled to no territorial rights, unless a permission to occupy is called such, and I cannot see any reason why they should be excepted from the general necessity of getting their living by labour; but, on the other hand, I see the strongest motives of policy, justice, and gratitude, why such men as Te Hapuku should be carefully provided for and their position secured. Whether Parliament will see fit to rescue men from the effects of their own improvidence it is not for me to say. I cannot avoid thinking that it would be a dangerous precedent to allow any man or class of men to gain the belief that, if their imprudence is only of sufficient magnitude, Parliament will come to his or their assistance. In the case of the Hawke's Bay Natives, I believe a great number of the transactions now complained of were perfectly fair and honorable on the part of the European purchasers, and I am not aware whether it has been found that the Supreme Court has been applied to to interfere in such cases as are of a contrary character. But I am inclined to approve of that part of Sir W. Martin's scheme which would confine the interpretation of deeds to official agents of the Court, though that gentleman does not seem at all aware how greatly this plan would increase the expense attending the execution of any conveyance.

I am not certain that when Parliament, in 1865, passed Mr. FitzGerald's Native Rights Bill, it was not premature in its action. I think the intelligence and caution of the Maori was estimated more highly than it ought to have been, for the action of the Supreme Court is rigorous, and documents, when taken there, are construed according to their expressed meaning, or their meaning implied by law,

and what the party thought he was doing at the time he executed an instrument is presumed to be what he has expressed. Thus it is very probable that few interpreters have thought it part of their duty to explain, in the interpretation of a mortgage, that non-payment of interest involved the power of sale, with or without the intervention of the Supreme Court; nor is it probable that Maoris were aware that non-payment of their debts might be followed by judgment in the Supreme Court and the seizure of their lands by the Sheriff. Indeed, I have had letters from Natives, complaining, as an injustice, that since they have obtained Crown grants to their lands they have been compelled to pay their debts, and these complaints without reference to the character of their debts.

But all these questions are questions of grave policy, the principle of which Parliament alone can decide. That the time must come when nobody will venture to assert that if the Maoris are to have the advantages of British subjects they must also have the liabilities and burdens, no one will venture to deny, but whether that time has as yet arrived it is quite clear, from Sir W. Martin's paper, that influential and conscientious men have not unanimously decided. But, until the voice of the Legislature on this question is declared, I respectfully submit, as my own opinion, that it would not be wise to retrograde, especially as the lesson has now been learnt.

As a great public question, I think it is admitted that the chief object of the Government of a Colony is as rapidly as possible to cause the waste lands to be brought into profitable occupation, by cattle and sheep first, but ultimately by the labour of a settled agricultural population. It is contrary to the habits of the Maori to cultivate more than a very limited area; but it is a matter of public concern that such an area should be secured to them, free from all power of alienation, and that settlement having been completed, I cannot but think that they should be at liberty to deal with the remainder of their wastes as they think best. But in the exercise of this discretion they will not, of course, be precluded from accepting the advice of the Government or of their friends amongst the European race. If the quantity of land determined by the officers of the Crown as necessary to be retained by the Maoris, in the case of the final settlement of their claims under the Ngaitahu deed, is to be taken as a criterion, I think it will be found that the amount locked up, even in Hawke's Bay, still exceeds their necessities. Whether they would willingly submit to have any portion of the proceeds of future sales permanently invested I am not prepared to say, but I should not be surprised to see any such interference, although intended and likely to prove for their good, very seriously resisted. Although the Maoris, like every one else, lament the result of their own imprudence, it does not follow that they would relish the power to commit the imprudent acts being taken away from them.

I also enclose for your perusal a memorandum by Mr. Heale, the Inspector of Surveys. That gentleman has, I think, suggested matter for very grave reflection. The progress of the Court has, perhaps, been too rapid, and I would willingly see more power given to the Government to moderate and influence its operations in the future; and the true way of doing this has been suggested by that observant officer. When the Act of 1865 was passed, it was well known that Government surveyors would not be suffered on Native lands. The appearance of a surveyor's chain was at that time the signal for a riotous resistance by the Natives, but that feeling has now entirely disappeared, and I have been constantly in the receipt of letters from all parts of the Island requesting me to send Government surveyors on to lands proposed to be passed through the Court. The fact is that now Maoris are fully aware of the frightful expenses of the present system of surveying—a system which, in some cases almost consuming the entire proceeds of the land when sold, is still burdensome and unremunerative to the surveyor himself. Uncertain of payment, and compelled to obtain advances, for which a discount of 60 per cent. is sometimes charged, the surveyor is driven to indemnify himself as far as he can by exorbitant charges. Moreover, the same land is sometimes surveyed by two or more surveyors representing different sets of claimants, and when an adjoining block is prepared for adjudication the same line is again measured. A Government surveyor would be able to survey a number of blocks at once, and at the same time would perform, on the ground, without additional expense, the task of reconciling the minor differences which Sir W. Martin would effect by, in each case, sending on to the ground the Court itself. That the influence of the Court as a judicial tribunal—at present greatly respected by the Natives, because they are aware that it decides simply on evidence taken in an orderly manner in open Court—would not for six months survive such a degradation of its functions I am fully persuaded; and if you will look at the accompanying return of the area of blocks adjudicated upon in Auckland, it will be apparent to you that, except perhaps in Hawke's Bay, where the areas are large, Sir W. Martin's whole scheme, even if otherwise reasonable, would break down under the weight of its expense.

If at the same time Mr. Heale's department were charged with the other surveys of this Island, now rendered especially necessary by the large plans of the Government, the saving of expense and the increase of efficiency would, I think, give great relief to the Natives,—who now indirectly contribute such large sums to the public surveys,—and would prove very satisfactory to the several Provincial Governments.

There are many minor points of practice,—such as power for the Court to refer a case to the Supreme Court; the subdivision of lands after they have been dealt with without the unanimous consent of the owners, as in the case of a Bill in Equity for a partition; the exclusion of European agents; the powers of assessors; the calculation of duties; the issue of certificates where Crown grants are to follow,—to which I must not advert, for if I did so, this letter would be too long to be of any use. I will merely add, therefore, that to your plan of dividing land into two classes,—one held under certificate, with which no dealings can take place, and the other under grant, with no intermediate certificate,—I quite agree.

In again dealing with this great question, we are in a position of advantage which we could not pretend to in 1865 and 1862. The knowledge of the able men whom the Government have appointed as my coadjutors, almost all of whom had a long antecedent experience of political and territorial dealings with Natives, enables us now to think with confidence on points which, in 1865, could only be dealt with tentatively; and the authority which the Court has gained throughout the Island,—whether in consequence of its own character and operations, or from the proceedings of the Executive Government

or from both, it matters not,—renders us now capable of taking steps which, when the first Act was passed, few would have dared to venture on.

Although our proceedings have sometimes inflicted upon the Native Minister for the time being the trouble and weariness which, unfortunately, seems inseparable from Native affairs, and which seems to break men down before their time, yet I cannot remember that any decision yet given (Manawatu, perhaps, excepted, which was in exceptional conditions) has ever occasioned the Government a day of serious anxiety as affecting the peace of the country. That the Maori race will always be satisfied with a system which they will gradually learn, as Wi Tako has already learnt, is a very operative machine for opening their lands to colonization and reducing their holdings to some relations to their necessities, I cannot hope.

But although I believe, with Mr. Maning, that the final struggle between the races has yet to come, I do not think that that event will be precipitated by any operation of Government which is fair and perfectly understood and accepted by the Natives, and any law on these great and vital questions must now be also satisfactory to the European people settled in New Zealand. I am quite persuaded that no law which does not give reasonable satisfaction to both races can have any chance of success.

But after all we can do, it is against all our lessons of history, and opposed to the truth of human nature, to suppose that the soil of a country can, by any method within our powers of imagination, be transferred from an ancient race, which has long held it as sovereign owners, to an intruding people, without suffering and unhappiness.

I have, &c.,
F. D. FENTON,
Chief Judge.

The Hon. the Native Minister, Wellington.

P.S.—I enclose a letter from Mr. McCormick, of Auckland, brought by yesterday's mail. That gentleman has been much employed in the Courts, frequently on behalf of the Crown. Also a letter from Mr. Field, surveyor, which is very suggestive.

Enclosure 1 in No. 2.

Judge ROGAN to the CHIEF JUDGE, Native Lands Court.

SIR,— Kaipara, 26th June, 1871.

With reference to your letters, dated 9th February last and 8th June, numbered respectively in the margin, requesting me to furnish you with a report on several points in connection with the present working of the Native Lands Act, I beg to express my regret that circumstances have prevented me from giving the subject of your letters the attention I should have wished at the proper time; yet I hope the observations submitted to you will be in time to accompany reports from other officers, if they should be of sufficient interest to be placed before the Assembly.

Before giving any distinct reply to the points alluded to in your first letter, I propose to make a few general remarks, being the result of events indelibly impressed upon my mind, in relation to the purchase of land from the New Zealanders, about the period when the New Zealand Company's settlers first came into the country.

You are aware that I held an appointment under the Plymouth Company of New Zealand as Assistant Surveyor in the year 1841, when, after the township of Taranaki had been laid out in allotments, my duty required me to remove to suburban and rural districts to divide the land into fifty-acre sections. It will at once be perceived that to carry on a survey in a district where, at that time, all the inhabitants were Natives, it was of the utmost importance to me, both in regard to my public and private capacity, to be on good terms with the people, and to accomplish this I very soon discovered that, where none could speak English, a knowledge of the Maori language in part was most essential to the progress and success of my operations. Accordingly, I soon made myself sufficiently acquainted with the Maori tongue to conduct an ordinary conversation. From these circumstances I was enabled to ascertain the opinions of the Taranaki people regarding the purchase of that district, which was arranged with a few chiefs only. The all-absorbing theme of interest with the Natives, and the mode in which that district was paid for by the officers of the New Zealand Company, was openly ridiculed by such men as Katatore, for, to do justice to some of the leading Natives of that period, I must say that, from the very first settling of that district by Europeans, they (the chiefs) predicted that a time would certainly come when the real owners of the soil would return from North and South to re-occupy Taranaki. The fear of Te Pakaru and his tribe coming from Kawhia and occupying Taranaki or the north bank of Waitara, caused the resident Natives to acquiesce in the survey, and to live on general good terms with their neighbours; and settlement progressed favourably, as a rule, until the Wairau massacre, when the Natives who were continually coming from the North, emancipated from slavery, and from the South, made a formal stand against a large party of the New Zealand Company's workmen, who were forming a road on the banks of the Waitara, and compelled the labourers to withdraw to New Plymouth.

Other demonstrations of rapacity were made with a view of re-establishing their "mana," such, for instance, as at Mr. Cooke's farm at Te Hua, where an old savage mustered a large force, felled the timber, and cultivated the soil for years afterwards.

This was the time when the Natives said "the Jews were returning to Jerusalem." At any rate, the Maoris came back in great numbers, and took actual possession, I may say, of the entire district, thereby producing the melancholy state of affairs in connection with the land question in Taranaki. The settlers became exasperated and desponding, and their industry entirely paralyzed. Then came Mr. Commissioner Spain, who, for some reason, awarded 60,000 acres to the Company within the lines first cut by the surveyors of the Company. Subsequently, in 1844, the late Governor Fitzroy visited New Plymouth, and gave back the entire district to the Maoris, which at once and for ever annulled the arrangements by which the settlement was originally founded.

I have no desire to disparage when I point to the error of the purchase of the Company, which very probably was conducted without a knowledge of the Natives, and their custom or principle of dealing with land at the time. Something, no doubt, might be said for the social state of the Maoris, which at the time gave the warrior chief immense power that has now almost faded away. The Taranaki Natives, however, acknowledged no superiors, they were all chiefs—or rather slaves—and the proverb of the Poverty Bay Natives was peculiarly applicable to them, "Turanga tangata rite," "Equality and fraternity" of the Maori in Taranaki. It can easily be imagined how exultingly the Natives triumphed over this easily achieved victory, and the amount of patience required by the Europeans to submit to the "tawai" of the Maori, when the settlers were compelled to abandon their farms to the enjoyment of the Ngatiawa.

A new and radically different system of purchasing land was subsequently adopted by the Government of the day, and Mr. Commissioner McLean succeeded in purchasing a small block of land, including the township, called the "Fitzroy Block." This, it will be therefore seen, was the commencing point of purchasing the district over again; and it is hardly necessary for me to weary you with the different purchases which were made from time to time by Mr. McLean, or under his direction, in that district. One of these purchases was attended by me long before I entered the Land Purchase Department, and it was clear to those who witnessed the transaction that the Commissioner exhibited an amount of energy, unwearying attention, and caution, in dividing the purchase money among the respective families who owned the land, which established him in the good opinion of the leaders of the Taranaki tribes.

When I was a Land Purchase Commissioner in the Native Department, I may say, without being egotistical, I was not unsuccessful in purchasing land under that system, and I am not aware of any real dispute or protest having been raised out of any land purchased by me, except in a political point of view by the adherents of the so-called Maori King. I am, however, prepared to say that, even before the Native Lands Act became law, the Natives in the Kaipara District were so dissatisfied with the amounts I was authorized to offer, that it would have been very difficult, if not impossible, for me to persuade this people to alienate any more land to the Government.

It would only be troubling you if I were to relate some of my experience in the system of old land purchases; and as for the penny-an-acre proclamation, it never reached so far South as Taranaki. The Manawatu purchase was, as a Maori at Otaki related it to me, the climax of all land purchases, when it is said that Mr. Buller and Dr. Featherston drove in a dog-cart to Rangitikei, spilled £25,000 out to be scrambled for, and left the settlement.

With regard to the working of the present law, I believe I have already expressed an opinion to the effect that "The Native Lands Act, 1865," was favourably received by the Natives, and the working of this Act was satisfactory to those Natives who were interested in and attended the Courts over which I presided. Whether it was because it was translated into Maori, or its mere novelty, I cannot say, but it is certain that the subsequent Acts and amendments, which to a very large extent allows every one to give his own translation to the Maori, who has no means of testing their accuracy, has caused an amount of suspicion to arise in the naturally susceptible mind of the Maori, and it is my belief that this suspicion can only be overcome by giving the benefit of a synopsis, in the Maori language, of any Consolidated Act which may be passed by the General Assembly.

As regards the Kaipara, Whangarei and Mahurangi Districts, the only real murmurings I have heard from the chiefs have been against the Government for imposing such heavy duties upon their land, subsequent to its passing through the Court, that they say the net proceeds received by them reduces the amount, at times, below the former rates. It has also been remarked by some of the younger class of chiefs of ability, that as it was in the beginning so it is now,—only a system of land-sharking, with the purchaser on one side and the Government on the other, while the interest of the Natives, being left between the two, sinks into the gap of nothingness.

Whether the Europeans have in reality benefited much by the provisions made for land purchased under the Native Lands Act remains, in my opinion, still to be seen, as the land, for the most part which has been purchased was not so much for the purpose of land-jobbing as for actual settlement and for a future home,—for cattle and sheep runs, which are well known to require capital and time to make profitable; but it is certain that a great benefit has been done to the country, as a good deal of labour has been employed as well as capital, for the stocking of these runs, which would never have been the case under the Government Land Regulations, which admitted of 320 acres as the maximum that could be held by one person.

It has appeared to me, from experience, that the investigation of Native title under the Native Lands Act, where the land has not been previously surveyed, is a very great defective point. I may mention the case of Te Aroha, which was always unsatisfactory, to my mind, from the first, and will, in my opinion, be found to remain a bone of contention for the future.

The large blocks of land, inland of Mr. Buckland's run, which have passed your Court, and for which interlocutory orders were granted, are in a precisely similar position,—a section of the Ngatiraukawa Tribe will always dispute the law. Raids are frequently made on Buckland's sheep, by Natives from the interior, which cannot be prevented except by force.

It has always been my opinion that the actual survey of a block of land, from being, as a rule, the result of preliminary discussions, however antagonistic, assists very materially to bring out the real ownership, and leaves the question of title more easily and clearly determinable. I am, therefore, opposed to the principle of interlocutory orders previous to an actual survey.

I do not think much, if anything, can be done now, after the late change, to improve the relative positions of the interpreters, unless you initiate examinations to classify them.

With respect to the surveys, I am of opinion that, with an efficient staff of professional gentlemen under the control of Mr. Heale, the land would be, in most instances, surveyed, certainly with more economy and, no doubt, often with greater satisfaction to the Native owners, as, under the present system, a surveyor sometimes employed by a single member of the persons interested in a block of land, goes on to the ground and finds that a dispute has taken place about something, probably a boundary

line, and not, perhaps, understanding what the clamour is all about, he remains quiet. A good deal of time is thus often lost, and instances have occurred where the surveyor has been obliged to return without even commencing his work, which was left, probably, to be executed by the more astute successor; while, on the other hand, the Natives at the Court afterwards have been, or pretended to be, astonished at the charges demanded for loss of time.

At the last Court in Kaipara a long list of cases was disposed of, and, to many of those who attended that Court, it was a matter of surprise that most of the cases passed without any controversy taking place, caused by the Natives, at my suggestion two years previously, having taken the precaution to convene meetings for the specific purpose of settling their boundaries for the most part before the surveys were undertaken.

Let me not, however, be understood to say that a prerogative of surveying Native lands should be granted to members of Mr. Heale's staff, as it is evident that such a course would not only prove an insurmountable obstacle to the purchase of land from many Natives holding possession of some of the most fertile lands of the Province, along with a most decided antipathy of anything even resembling an authority from the Government to suppress his liberty of choice, it would not only give umbrage to the great bulk of our European population, who are advocates of general commercial freedom, but it would also prove a severe blow, if not privation of subsistence, to many holding a purchased professional license, which in itself implies a necessity as well as a right to enter the lists of competition; though I must confess, experience goes to prove that where there has been an over-competition, which means to do it anyhow as long as it will pay, the work was seldom executed to the satisfaction even of the Natives; so, while viewing all the sides of the case, I apprehend it to be a very great difficulty to organize a system which would reconcile all interests or be consistent with all principles, and without being liable, by one side or the other, to reasonable objections.

Before concluding my remarks on this subject, I beg to say, and I hope without disparagement or offence to Mr. Heale's office, that although the intellectual faculties of the present generation of New Zealanders are gradually growing more enlightened, I am convinced that a surveyor in the country should be able to have a knowledge of the Maori language, and better still (where convenient) if personally acquainted with the owners. This would obviate recurrences and check such feelings of prejudice as were displayed lately in the North, where the trigonometrical survey was delayed, because the officer in charge could not or did not explain the purpose of his operations to Komene, who could easily have been convinced of the advantage of this survey to himself.

I now come to point five of your letter, which requires a solution of the very essence of the so-called Native question. As my mind is not yet clear on this subject, and as this letter is longer than was intended, with your permission I will leave it to time and the drinking customs of society, which will assuredly dispose of the New Zealander if some great change does not overcome their present mode of life.

I have, &c.,

J. Rogan, Judge,
Native Land Court.

The Chief Judge, Native Lands Court.

Enclosure 2 in No. 2.

Judge Monro to the Chief Judge, Native Lands Court.

Sir,— Auckland, 12th May, 1871.

I have the honor to acknowledge the receipt of your letter of the 9th February, requesting from me a report in reference to the past working, the defects observed, and the possible amendments that might be suggested in the Native Lands Court Acts, under the several heads therein enumerated. It is not to be expected that so complete a revolution as is implied in the exchange of a communal and often disputed tenure of lands held as the property of all the free members of a tribe, for one definite, personal, and subjected to at least the broader principles, if not in all cases to the technical niceties of the Real Estate Law of England, could be carried out over so large an area as that of the North Island of New Zealand without some occasional hardships being inflicted upon individuals in its progress; and it not unfrequently occurs, in cases such as that now under notice, that individual instances of hardship attract more immediate notice than the broader and far more important but more silent results which affect society at large as growing out of such a revolution. Hence arises, on the part of many, a disposition to overlook such results; to clamour loudly and unreasonably for a recurrence to the old order of things; and to ignore the changes in society which have made such recurrence not only undesirable but impossible. The advent of the English colonists found the Maori tribes and families in possession of certain tracts of territory, the boundaries of which were approximately settled, if not with the accuracy of survey, yet with sufficient distinctions to render any considerable encroachment upon them cognizable within such limits. It does not appear that there was any generally admitted individual and personal tenure, further than that of mere occupancy and cultivation, and certainly no indefeasible hereditary right limited to any one member of a family, at all answering to our ideas of inheritance by primogeniture. A man enclosed and cultivated a portion of the common land of his tribe, and no other man had a right to disturb either him or his family, sons or daughters, while he continued to do so. The land was theirs in occupancy, and its produce was theirs in property; but neither the original occupant nor his family had any estate in fee in the land. The communal right so existing was recognized by the Crown in the Treaty of Waitangi; but inasmuch as it was one too much at variance with the habits of a civilized community to be adopted by the colonists, provision was made by the same Treaty for its gradual extinction in the pre-emptive right given to the Crown, which was thus made an instrument for the gradual exchange of the vague and imperfect occupancy tenure of the Maori tribes into the more definite and fuller proprietary tenure of individual citizens, whether Maori or European, which alone could be recognized by the law of a settled Civil Government. It was, however, hardly possible that this system could be permanent; it had, indeed, such inherent defects that the very success of it in the commencement insured its final

failure. The Crown, which was the purchaser of lands, was also the sole judge of the right of tribes or familes offering land for sale, and therefore was directly exposed to the suspicion of unfairness in extinguishing conflicting rights in proportion to the willingness of the claimants to alienate territory which was so urgently required for the purposes of colonization; while, in the event of a purchase being made from a tribe not entitled to the land in question, the Crown was at once placed in the dilemma of either remaining a direct party to an act of injustice, or of having to extricate itself from that position by a double expenditure of public money. Again, the proposal on the part of any tribe to sell a block of land to which the fact of colonization had imparted a value previously unknown, could not always be unanimous, while it gave the signal for the revival of numbers of dormant claims, more or less well founded, and upon which there existed no independent tribunal competent to decide; and the refusal of any section of the tribe or of any of the numerous claimants to accede to the sale, or a general reluctance on their part to see what they considered as the inheritance of their fathers passing into the hands of another race, placed them in such a position of antagonism to the Government as would easily convert the non-seller first into a disaffected subject and then into an open rebel.

How far these several results have actually taken place is now matter rather of history than of speculation. At the time when the first of the Native Land Court Acts was passed by the General Assembly, it had become generally acknowledged that the old system of Crown pre-emption (which, indeed, had once before been temporarily abandoned) was now absolutely effete; and that, if land was to continue to pass from the hands of the Maori tribes into those of the rapidly increasing European population, it must be by the substitution of some other means, whereby the rights of the former could be first ascertained and determined, and converted into a legally cognizable tenure, before being transferred to the latter; while the Crown should exchange its invidious and dangerous position of a party to the transaction, buying from one and selling to the other, for the more appropriate and dignified office of judging of the rights of the sellers, and giving validity to their voluntary acts, whether of alienation or retention. If, indeed, the transfer of land had been the sole object the Legislature had in view, it might have been sufficient to have referred cases of sale only to the Court, for examination and confirmation; but inasmuch as it was plain that many of the rights of citizenship are inseparable from an individual tenure of property, and that land is one of the most important species of property, it was wisely determined to make the measure more general in its application, and, as far as possible, an instrument for the conversion of the Native communal into an English proprietary tenure, which would confer upon its possessors of either race, not only the rights of owners of the soil, but those also of freeholders—in a word, of citizens.

It has, indeed, been alleged by some, that the system of the Court was recommended to the Maoris mainly by its novelty—by the love of change so characteristic of a semi-civilized race; and this may have been true in the commencement; but it cannot be denied that a conviction has gained ground among them of the impartiality of the Courts, and that, when a miscarriage of justice has occurred, it is in no respect attributed either to the Judges or to the system they administer, but either to a failure to produce evidence in the process of the case, or to an unfair use of the legal power put into the hands of those in whom the Court has found it expedient to vest the land. A comparison of the area of land purchased, under Crown pre-emption, in the twenty-four years between 1840 and 1864, with that which has been passed under the operation of the Native Lands Court in the six years subsequent, will prove that the present system has brought under the cognizance of English law a nearly equal area in this Island.

Even did this fact stand alone as the sole result of the establishment of the Court, it would be no trifling evidence of their value; but when to this we add the increased reverence for law, and increased confidence in the judicial tribunals which are intrusted with its administration, it is difficult to calculate the value of the system in its effects upon the Native mind.

In the foregoing observations I have not considered it necessary to preserve any distinction between the first and second heads named in the letter under reply, conceiving that present results are the best criterion of its past working. Defects in the working of so entirely new a system are, of course, to be expected; and perhaps the most prominent of these is to be found in the difficulty arising from the number of claimants interested in particular blocks. Although the entire lands of any tribe were owned by the whole body of it, in its widest extent, yet sections of that tribe had their several portions of territory restricted to them by the same condition of occupancy by which the larger tribe held the larger area.

In bringing the Native Lands Court Acts into operation, it was trusted that the Maoris would see the wisdom of practically allowing such subdivisions of the territory to take undisputed effect, and such has been to a great extent the case, each sub-tribe or family waiving their rights over the lands occupied by others, on condition of being allowed undisputed ownership of their own particular holdings. Thus, one much-desired result, the individualization of land title, has been advanced a great step towards its accomplishment. With a view to that end, it was decided that not more than ten names should be inserted in any Crown grant made in pursuance of an award by the Land Court, the Legislature having in further view, when making this provision, the great practical inconvenience certain to result, in any subsequent transactions, from having any larger number to deal with where unanimity in action would have become essential. In many, perhaps in most, cases this provision acted, as it was desired that it should act, in causing a minute subdivision of the land, so that not more than ten persons might be interested in any special holding: but there were circumstances more particularly affecting the grassy plains of the Province of Hawke's Bay which greatly interfered with this desirable result. Here, in consequence of its physical character, the country had been occupied in much larger blocks by runholders who had made contracts with the Natives prior to the passing of the Act, illegally, *i.e.* in opposition to the then standing statute law, and who were naturally anxious to have their presently existing and insecure occupation exchanged, unaltered, for a legalized and sustainable tenure. Nor were the Maoris at all averse to assist towards the same end. They had for years past been receiving large rentals for their lands, and no difficulty had been found in subdividing the money so received among the respective

claimants in accordance with their own determination of their respective rights; while a subdivision of the blocks would have entailed upon them increased expense of survey and trouble in receipt of rents, without a corresponding advantage, visible at first sight to them, to counterbalance these. The runs therefore were passed, in accordance with the proviso, in the names of ten claimants, in reality and equitably, trustees for the benefit of themselves and of their co-proprietors; but in appearance and at strict law, absolute owners of these tracts. I need not enlarge upon the abuses to which such a state of things has opened the door.

The question, how this evil may best be remedied, is a difficult one. The insertion in the grant of the name of each individual interested in it is, in practice, in many cases so evidently impossible that it may be at once dismissed. The most effectual remedy, a more complete subdivision of the land, so that no more persons should be interested in a single grant than could practically be dealt with, is in the hands of the Maoris themselves; while any system of grants with trust expressed in them, other than for public purposes, is looked upon with extreme disfavour by the present age. The registration of the names of the claimants in the Court, under the 17th section of the Act of 1867, and the issue of a certificate only to determine the proper parties to be dealt with, is the only remedy as yet discovered for this acknowledged difficulty.

The question of survey belongs more particularly to other officers than myself to discuss, but, without trenching upon this special province, I may remark that in my opinion it would be decidedly advantageous that the survey of the external boundaries, required by the Acts as preliminary to an adjudication, should be conducted under the immediate control of the Inspector of Surveys Office. A more uniform and reasonable scale of charges, and much greater accuracy in avoiding overlaps and similar errors, might be insured, while greater punctuality in payment could be enforced. As matters stand, the right given to surveyors to retain a lien on the grant is, in many cases, virtually of no effect: the certificate insures the uninterrupted possession to the parties named in it, and where there is no intention to alienate, they have no object to be gained by the expediting of the grant.

Another complaint made of surveyors, and not without just ground, is the necessity for their attendance in Court to give merely formal answers to certain regular questions, in respect of which a certificate upon this plan, or, if deemed desirable, a statutory declaration appended to it, might, I think, be satisfactorily substituted. In cases where the evidence of the surveyor might be deemed necessary to establish any other point, he might be called by subpœna, like any other witness.

I have not touched upon the question of delay and expense incurred by useless prolongation of cases placed in the hands of agents, because the last and most flagrant instance of such a case has, in effect, worked the cure of this crying abuse, and placed in the hands of the Judges themselves the power of preventing a repetition of such a scandal upon the administration of justice.

In conclusion, I would desire to remark that, so far from being averse to seeing large tracts of land alienated from their aboriginal occupants and passing into the hands of the European colonists, I have always looked upon the wide extent of the uncultivated holdings of the Maori as a curse to them rather than a blessing; and I maintain that every legitimate encouragement should be held out to them to part with their surplus lands to those who can make the use of them for which they were intended, care being taken that each Native has ample land secured to him for his own maintenance.

I have, &c.,
HENRY A. H. MONRO, Judge,
Native Land Court.

Chief Judge, Native Land Court.

Enclosure 3 in No. 2.

Judge MANING to the CHIEF JUDGE, Native Land Court.

SIR,— Native Land Court Office, Hokianga, 27th April, 1871.

I have the honor to acknowledge the receipt of your letter No. 60, of date 9th February, 1871, requesting me to report on certain points regarding the working of the Native Land Acts.

In endeavouring to answer the questions you have placed before me, I beg to be understood, except in cases where my remarks are obviously general, as coming to my conclusions from my experience in the Northern Districts where I have been chiefly engaged. I also hope that, as I am very much pressed by the business of my office, you will excuse me being as brief as possible in my answers, though at the same time I do not insinuate that were I to use a greater number of words, my report would be at all more valuable.

1.—*Past workings of the present Laws.*

The working of the present laws, or their failure, depended entirely from the begininng, on whether the Natives would or would not accept the opportunity held out to them of individualizing their titles to land, and of holding it by grant from the Crown. They have accepted it with great promptitude and very clear appreciation of the advantages which they obtain, and it is to this, and the very strong public opinion in favour of the present Native land laws, that may be attributed the authority which the Native Land Court has acquired, founded only on a moral influence, and which has enabled the Court not only to work the law without check, but to finally settle very many old standing disputes regarding the ownership of lands, which had been the cause of periodical disturbances, and which I do not think could have been settled by the Natives themselves without the intervention of the Court.

2.—*Effect upon the Maori and European People.*

One effect which I have noticed myself, and heard remarked on by others, and which is indeed quite perceptible, is, that there is evidence of an increase of industry, more economical habits, and a better mode of living, amongst the individuals and families who have obtained Crown grants for their farms. This improvement I have a hope will be more progressive and more general as the Native lands become more and more subdivided. When Natives have received grants for their lands, they seem to have no

hesitation, in as far as their means go, expending both money and labour in making improvements of a more permanent nature than they had previously done, and not a few have already made a respectable progress in this way, considering their means. I have also not unfrequently heard Natives on receiving an order for a certificate of title, remark with great satisfaction that they now felt secure in the possession of their property, as whatever others might do, their land could not be taken or confiscated so long as they themselves behaved as loyal subjects. I think this feeling among the Natives a matter of no little importance. It shows they have faith in the protection which the grant of the Crown imparts, and that they in consequence feel bound by circumstances and their own interest not to commit any very serious overt acts in opposition to the Government.

The Natives in the Northern Districts, according to my experience, come into Court in the great majority of cases with the *bona fide* purpose of procuring Crown grants for farms, generally of moderate size, for themselves; they nevertheless do sell land to Europeans, and the ability to do this, given by the action of the Court, is felt as a great benefit by both parties, but particularly so by the intending settler, as it enables him to select exactly the land which suits his purpose; and though no very extensive land sales have been made, I think the gradual settlement of Europeans, on not very extensive blocks of land, is the most desirable way of settling the country, particularly when the land has been purchased by the settler directly from the Native owner, as it brings the parties into contact in the manner least likely to cause dispute or danger, and most likely to lay the foundation of relations of friendship and mutual advantage.

3.—*Points found to be defective.*

The only objection I have heard made against the working of the Native Lands Act is, that in some instances certificates of title have been given to only a few individuals for lands in which many others had interests, on the understanding that the minority of the owners actually named as entitled would act as trustees for the rest, and guardians of their interests, but that they did not do so, and in fact sold the land for their own advantage. I do not know whether any such case has really occurred, having only heard a report that some such thing did happen at Hawke's Bay. On this I have only to remark that, apart from the question as to whether such a proceeding would be good in law, which it might or might not, according to the real circumstances of the case, I think "The Native Lands Act, 1867," section 17, seems a sufficient protection for the interests of Native owners for the future.

4.—*Surveyors.*

I do not think it at all advisable that the surveys of lands should be undertaken by Mr. Heale's office, or by any other official department, for the claimants.

5. When it is taken to be a natural consequence of the contact of two races of men, that the soil of the country of one shall pass into the hands of the other, the suffering to the losing race appears to me to be equally inevitable, and therefore not to be in any way reduced or prevented. The higher the losing race may have stood in the scale of humanity, and the greater their material advantages of life have been, the greater will be the suffering, because the loss of the soil means degradation and poverty to the race. I think, therefore, that no plan can be devised for reducing the suffering at all in amount, though it may be reduced in intensity, but only by extending it over a greater length of time. Whether it is worth while to do so, or whether the more powerful race, though talking about ameliorating the condition of the other, would in reality do so, even were it possible, appears to me to be doubtful in the extreme. Individual benevolence has, no doubt, always existed, and has had more or less visible effects; but we look in vain for any marked proof of the exercise of benevolence as between races.

I take it for granted that the two races more particularly pointed to by your question are the British and Maori races; and I therefore think it right to state my opinion that the time has not yet arrived in which we can assure ourselves that the soil of the Northern Island of New Zealand will pass permanently into the hands of the British people, or that the British race will be to a certainty the only ruling power in this country.

As the Native Lands Acts in their operation seem to attain the objects for which they were intended, I feel unwilling to suggest any alteration, except those few amendments which have been the subject of discussion between us, and the proposal of which I would leave to your better judgment.

I have, &c.,

Hon. F. D. Fenton, Chief Judge, Native Land Court, Auckland. F. E. Maning.

Enclosure 5 in No. 2.

Mr. Theoph. Heale to the Chief Judge, Native Land Court.

Sir,— Inspector of Survey's Office, Auckland, 7th March, 1871.

The first and fifth heads on which I am desired in your letter of the 17th ultimo to report, justify me in going beyond my own proper province of survey. I am induced, therefore, to make a very succinct sketch of the whole question of Native land titles, and the means that have been adopted to convert them into legal freeholds before considering the improvements which appear to me to be required in the existing mode of dealing with them, both in its general conduct, and especially in that branch of the system in which I am more particularly concerned. Omitting altogether, for the sake of brevity, the historical facts which sustain these views, I take for granted—(1.) That the Native title to land is communal,—all the free families of the tribe which acquired land being its proprietors, the chiefs* having no greater rights in it than the other members of the tribe, except in so far as, at the present time, they generally represent a greater number of families. (2.) That this title was founded entirely

* Perhaps this was not always so; before the great numbers of hapus split off from the original tribes, the authority and recognized rights of the chiefs may have been greater. Since it is very common to hear adverse claimants representing different hapus, all admit that the land originally belonged to one common ancestor, who is said to have made a division of it.

on ancient and uninterrupted occupation, or on conquest, followed by such acts as, in Native eyes, implied continued occupation, or at least dominion. (3.) That this title vested in the community, and maintained only by its physical force, was such as could not possibly be recognized or administered by Courts bound in matters of real estate by the rules of the English common law. (4.) That these rights were in the largest and most general terms confirmed and guaranteed by the Treaty of Waitangi, and that some machinery became absolutely necessary for ascertaining the individuals in whom the right to the land lay, according to Native views, and for converting those vague and unavailable rights into such titles, vested in individuals, as would enable transfers to be made to which the rules of English jurisprudence would apply.

The first and most obvious method was to buy up, on behalf of the public, these rights of the Natives, whatever they might be—(and for this no close investigation or nice discrimination as to ownership was required, the only care necessary being that all claims, good or bad, should be extinguished by purchase);—and then, having acquired to the Crown the absolute freehold, to re-issue it under the sanction of Crown grants. I need not go into the history of this system, its progress, and its failure, further than to observe that it involved these fatal objections—

1. That the buyer was the final and only judge of the rights of the seller, and therefore laboured under the suspicion of being disposed to view with favour the claims of those who were most willing to sell.

2. That, in practice, the only mode the buyer had of ascertaining the nature of the title and of learning the complex and disputable facts and traditions on which it rested, was by separate interviews with the different claiming tribes, who had a constant tendency to exaggerate their claims in order to counteract the exaggerations which they knew the other parties would use; and so, there being no means of confronting adverse claimants, all the old disputes and tribal feuds were renewed and exasperated. And,

3. That since the land buyer and the Government were, in Native eyes, identified, any violence or threats by which a tribe sought to maintain its claims to land appeared to be outrages against the Government. An indisposition to sell land became disaffection; and the Land Leagues, which were naturally formed as some protection against the alarms and suspicions of the Natives, lest negotiations should be made with other parties for lands they claimed, were undistinguishable from hostile associations against the Government and the Colony. That, after twenty-five years of this system, incurable suspicions filled the minds of the Natives; that the Colony suffered miserably from want of lands, while purchases became increasingly difficult; and that the peace of the country was fatally disturbed,—are matters of history, on which I need not touch. The remedy applied by the Legislature was based on two leading principles,—

(1.) That the Government should no longer present itself to the Natives as a bargainer for their land; and,

(2.) That all questions as to the ownership of Native land, and investigation of the facts on which it reposes, should be referred to a Court composed of Judges appointed for life, therefore independent of the Executive, and free from all suspicion of interest in the result; holding its sittings only in public, after due notification, and with the parties confronted before it.

The soundness of these principles is so unquestionable, and the success that has followed their adoption is so manifest, that I apprehend they can never again be called into serious controversy; and the question now to be considered is, to detect and suggest a remedy for any defects which may have shown themselves in the working of the system based upon them, rather than to discuss the principles themselves.

Before passing to these supposed defects in the working of the Native Land Court system, I may notice—but only to pass over, as belonging rather to the domain of general politics—that extensive evils have arisen from its immense success, and its consequent over-rapid operation. Up to the year 1865, as far as can readily be gathered from published returns, the whole amount of land alienated by the Natives in the Province of Auckland only amounted to about 2,000,000 acres, of which a great portion has never passed into the hands of individuals; while, since that time, 2,000,000 acres have passed through the Land Court, of which the far greater part has been alienated by sale or lease, or has been thrown on the market for that purpose; and this large consumption took place although, during the same period, about 2,000,000 acres more have been confiscated, of which also the better portion has been distributed among the colonists.

It is impossible that so enormous a change in the ratio of supply and demand can have taken place without many inconveniences arising, the most obvious of which is the great depreciation in price; lands equal in quality to what in 1860 were readily sold at £1 per acre, and which could only be obtained in small areas, are now hawked about in large blocks for sale at 2s. per acre, and even less. From this it is that much of the dissatisfaction with the working of the system arises.

The Natives, for the most part, can only look at results, and their discontent is natural; the costs, too, which would have been an insignificant proportion to the value at 20s. or even 10s. per acre, look enormous when the land is sold at 1s. Even the colonists who were most friendly to the operation of the Act, having now, for the most part bought land to the extent of their means or desires, are concerned to see the price still falling as fresh lands are passed through the Court. This evil is great, and it may well engage the attention of politicians, but it is the triumph of the Native Land Court system.

The Native Lands Act did not bestow the lands of New Zealand upon the Natives; that had been already done, as fully as words could do it, by the Treaty of Waitangi; the object of those Acts was to make those absolute and complete, but vague and indefinite rights available, for transactions with the colonists; and if too much land has so been made available, and an overstocked market has resulted, that can never be made a reproach to the Native Land Courts or their system. I return, therefore, to the consideration of what I conceive to be the defects in, or the impediments, to its action. These, I believe, may all be resolved under the following heads, namely:—

1. The want of settled rules as to Native title and evidence; that is, some outlines, at least, of a code of received Native custom and usage and a settled and simple law for the guidance of the Court.

2. The practice of vesting legal and convertible estate absolutely in a few individual Natives, who are, in fact, only representatives of a number of families.
3. The great expense and imperfection of the means of ascertaining and fixing the limits of the parcels of lands from the want of a sufficiently comprehensive and accurate system of survey; and
4. The great and increasing expenses involved in the hearing of contested claims, especially in the larger towns.

The first defect noticed is one which was inevitable in the commencement of the system. In the twenty-five years which elapsed between the foundation of the Colony to the full establishment of the Native Land Court, no progress had been made in ascertaining what constituted Native title to land; whether conquest absolutely extinguished the rights of the conquered? What right remained to conquered or submitting tribes suffered to remain on land in some subject capacity? (*Rahi*) rules of inheritance, &c.

Thus the Native Land Court had unavoidably to seek out, from the evidence before it—from its Native Assessors—and ultimately from its own experience, what the Native custom and usage was, as well as the facts to which it was to be applied. This happened to be a function to which the Court was peculiarly fitted, and it has unquestionably been very well performed; but I cannot but think that the time has now come when the experience acquired is sufficient to enable a tolerably complete system of rules to be laid down, and that their publication would save the Court and the litigants a great deal of time and labour, and would make the Court's judgments more clear and intelligible to the public, and so increase the confidence with which it is regarded.

As regards the application of English law to the issue coming before the Native Land Court, I cannot but think that the leaving decisions in any disputable point of law to the Court was an unfortunate mistake. Originated to deal with "Native customs and usages"—intended to sit in Native districts to decide on claims to land on the spot, and constituted partly of Natives—questions of technical law were peculiarly foreign to its nature and to the purposes of its institution. It appears to me, that the carrying out of its own proper objects requires that the Court should be as much as possible identified with the Natives, who should be able to follow the pleadings before it, and to understand all its proceedings; and that the introduction into it of solicitors and barristers, generally wholly unacquainted with the language or customs of the Natives—arguing technical points utterly unintelligible to the suitors, and even to the Assessor on the bench—was a fatal departure from its principles, which has brought to it opposition from many of the colonists, has in some degree estranged it from the Natives, and has introduced into its operation a delay and an amount of expense which is often utterly destructive to the interests it was constituted to protect. It appears to me, that in any legislative revision of the Native Land Acts, a provision ought to be made enabling the Court, in case of any question arising on a point of English law, to make up a case to be decided in some cheap and expeditious way by the Judges of the Supreme Court; and that in the Native Land Court Natives alone ought to be heard, with the aid only of Interpreters, whose functions should be strictly defined by the Court, and that the proceedings ought to be carried on originally in the Maori language, and be interpreted to the Court for record.

The evils which have arisen in practice under the third head have been of so crying a character that several attempts have already been made to mitigate them. I doubt if any will be effectual which do not go to the root of the matter; and that I conceive to be, to leave the land, as long as it continues to be held by the original Native owners, to be held by all interested in it in common, (in the now legal sense of the word) capable of being dealt with only in the way which alone Natives can clearly understand, by common consent, and only to invest it with the attributes of English real estate when, by the general consent of the owners, to be proved, like any other Native fact, by appearance before the Court, it is transferred to an individual capable of understanding and being bound by the rights and obligations effecting real estate. The chief difficulty in carrying this out would be the necessity of making the Native Land Court always available in the chief centres of Native districts, since a recurrence to it would be necessary whenever the certified owners wished to make a first transfer to the land awarded to them; but other reasons exist in favour of establishing the Courts permanently in the chief centres of Native districts, instead of sitting in them casually as now. As it is, the Natives generally have shown themselves incapable of appreciating the duties and responsibilities which they well know attached to the nominal estate in the lands of their relatives, which became vested in them, by their names being put into the Crown grants; scandalous frauds have been committed, by which valuable estates have been sold for a mere trifle, no part of which has reached the real owner; and those very parties who have thus abused the trust reposed in them have turned round against the law and the Court which gave them the power to do it.

I now come to the question which more properly belongs to me, the defects and shortcomings of the system of survey. The Native Land Court system was not only in its nature tentative and obliged to work experimentally, and therefore subject to many risks of failure in detail, but it also inherited many of the evils which arose from the faulty system which preceded it; these operated especially against a good system of survey. In the time when every Native stood in terror lest his hereditary enemies or his own kindred should privately sell the land he claimed, the act of survey was particulaely dreaded as evidence of such operations. The surveyor was watched for, to be hunted off the land whenever seen. Thus any system of general survey was impossible, and the practice became universal of making wholly detached surveys by cutting lines round the periphery of a piece of land, and traversing it with the chain by compass bearings, a system open to every kind of objection: it is enormously expensive; it defines the estate on the ground most imperfectly; it does not admit of any adequate check being applied to its correctness; and, above all, it does not enable the survey, when made, to be laid down on a record map. Moreover, the jealousy of the Natives of a surveyor, and particularly of a Government surveyor, was so great that, in 1865, it was not practicable to limit the performance even of such surveys as described to persons employed by the Government; but in order to avoid responsibility, and to disarm opposition, the Native claimants were left to employ their own

surveyors, the only check upon their trustworthiness being that these were required to be licensed by the Government. Even this slight check was to a great extent nugatory, since, when the survey was a matter of bargain, it was found impossible to refuse to allow the Natives to employ the person who would undertake to perform their work cheaply, unless some strong objection to him existed; thus, in practice, licenses have rarely been refused to persons who could produce respectable vouchers as to character and competency. As a rule, the Native landowners have not the means of paying the surveyor for his services, not even for his out-of-pocket expenses; they are therefore commonly obliged to accept the services of some one who will do the work on the security of the land. With such uncertain prospect of payment, the surveyor bargains for a far larger price than would satisfy him if he were paid in cash. In addition, he has often, if not generally, to pay a heavy percentage to the Native agent who procures him the work, and often still heavier discounts to some one who will advance money on the security of his claims.

The result of this system, as might have been expected, has not been satisfactory as regards the quality of the survey; it is often ruinous to the surveyor, and is very disastrous to the Native landowner. Its effect upon the Natives has latterly been exaggerated to a point which is becoming a reproach and a disgrace to the community, through the evasions by which some of the surveyors have succeeded in withdrawing their claims for survey costs from the cognizance of the tribunal which the Legislature specially appointed for their investigation, and practically from any check whatever.

Clause 69 of the Native Land Act provides, "That in any case whatever in which a dispute shall arise between any surveyor and his Native employers, either as to the amount of remuneration, or as to the quality of the work done, or on any question whatever arising out of such employment, the Court may inquire into the case and take evidence thereupon, and give such a decision in the premises as it shall deem fit, which decision shall be final and binding on both parties;" and the rule No. 58 of the Native Land Court, made in pursuance of that Act, provides that, "Whenever a surveyor or his Native employer shall bring before the Court any question under section sixty-nine of the Act, the party intending to apply to the Court shall give to the other party at least seven days' notice of his intention so to apply, except in cases where both parties are present."

Were these provisions carried out, some just ratio, at all events, between the quantity and quality of the work, and the price demanded for it, could be maintained; but a practice has arisen of inducing Natives, when desiring to have their land surveyed, to sign agreements, promissory notes, or other legal instruments, on which proceedings in the Supreme Court can subsequently be taken; and by these means, in some cases, Native chiefs have been arrested for survey costs, such as certainly would not have been allowed after investigation before the Native Lands Court. In others, lands have been sold under execution at insignificant fractions of their value, the surveyor himself being sometimes the purchaser.

Those who know the fatal facility with which Natives, when eager to gain an immediate object, can be induced to sign documents which they imperfectly understand, and of which the effect is comparatively remote, will see that there is no limit to the extortion which becomes possible when the judicial issue is taken, not upon the equity of the original bargain or the way in which it has been carried out, but simply on the legal effect of an instrument which a Native has been induced to sign. Such a condition of things ought not to be suffered to continue; the original cause for its allowance has to a great extent passed away. The objections of Natives to have their land surveyed have diminished with the cessation of the cause which led to them (except, of course, in the King's territory), and there appears to be no sufficient reason why the Government should not now resume this portion of its abdicated functions. One of the first necessities of any civilized Government is accurate maps of its territory. When the Legislature undertook to give valid titles for Native lands, it became bound to take due precaution to secure them against the risk of future litigation; there is only one way in which the duties can be properly carried out,—that is, by the rapid extension and connection of the various triangulations, which now cover about one-fifth of the accessible portions of the North Island; and by refusing to receive any surveys unless made in subordination to those triangulations, and by officers directly responsible to the Government, that is, by the Government taking into its own hands the execution of all surveys of Native lands. I am satisfied that the work so executed, though infinitely superior in quality, would not cost one-half of the average prices now paid, nominally by the Natives, but generally by the purchasers of Native lands; and while making a great immediate saving to the public, it would not ultimately involve any loss to the Government, since each land claim, as it passed, would be charged with its quota of the expense, which would ultimately be recovered in the same way as the other dues now are.

To carry this out I would propose, not that the work should in all cases be performed by salaried officers, but that, in suitable districts, one or more district surveyors should be appointed, who, when called upon, should survey any lands required to be passed through the Court, and receive therefor regular contract rates. Should, however, such a plan be seriously entertained, it would be necessary to prepare a very complete set of rules, which it would be premature to enter upon now. It may be necessary, however, to consider what would be the general effect of such a system. I think there can be no doubt that the cost of surveys now largely operates to deter Natives from passing their lands through the Court, and there is reason to believe that if this were removed a great increase would take place in the business of the Court, especially of large blocks not likely early to find purchasers; and the consequence would be, that the Government would become the mortgagees of very large areas of land, and, unless special action were taken to prevent it, the land market would become still more burdened with unsaleable estates. Whether this is desirable or not it is not for me to say; whether it might with propriety become part of a system by which, without any bargaining, the Government might systematically purchase large blocks at a certain fixed scale of rates, is a question of politics with which I have no vocation to meddle; but I ought to state my conviction, that the result of relieving the Native landowners from the task of paying for their surveys, would soon be greatly to extend the operation of the Native Land Court, and at no distant date to put an end to Maori tenure, with its interminable disputes and excitement.

I have, &c.,

The Chief Judge, Native Land Court. THEOPH. HEALE.

Enclosure 5 in No. 2.

Mr. J. C. MacCormick to Judge Fenton.

Sir,— Auckland, 16th August, 1871.

I return the draft of the proposed Bill for the consolidation and amendment of the Acts relating to Native lands. Owing to my absence from the Colony during the last month, I have not been able sooner to peruse the Bill with the view of offering suggestions for amendments, as you requested, and must beg you, therefore, to excuse the hasty notes which I have made in the draft, of alterations which I offer you for what they are worth.

Many of the points suggested by me have presented themselves to me in practice, and in other cases, I have suggested alterations and amendments which if made will, I think, give the Acts more beneficial operation than they have at present.

I believe that, on the whole, the Native Lands Acts have worked very well, and I approve highly of the general scope of these Acts, and am so fully persuaded of their beneficial operation, at least in this part of the Colony, that I should be very sorry to see them repealed. I make this remark because I have heard, since my return, that there is a party inclined to repeal them. I earnestly hope that the Government will not support such a measure, for I believe there is no Act passed of late years which has done so much to promote the settlement of the Colony as "The Native Lands Act, 1865." I am quite prepared to give good reason (as I believe) for my opinions on this subject, and I think myself entitled to express an opinion, having had some experience of the working of the Act.

So long as we recognize the right of ownership in the Natives in the lands of the Colony,—I mean not only in the lands cultivated or used by them, but also in those lands which are, and always will be, wastes, so far as any use of them by the Natives is concerned,—I do not know any method of dealing with the lands of the Natives which will be of so much advantage to the community as the system existing under the Native Lands Acts.

I have made several suggestions, in a rough way, as I have stated, but there are two matters particularly in respect of which I think radical amendments should be made in the Act. The first I mention is, that the jurisdiction of the Court should be confined to the cases of claims to lands in the ordinary acceptation of the word, and that the Court should not have the power to entertain claims of fisheries, or such claims as that recently made to the foreshore at the Thames. If Natives have really claims to the enjoyment of such rights, there is no likelihood of any person interfering with them, and they certainly do not require a grant from the Crown to protect them in the enjoyment of such rights. The grant would only be obtained for the purpose of enabling the Natives to sell such rights to private individuals—to make a profit at the expense of the public. Such monopolies as the exclusive right of fishing in a particular place are bad enough in the old country; in the Colony they are simply intolerable. I am doubtful as to your agreeing with me in this respect, but I feel very strongly on the subject. I have offered a suggestion in section 7, but I would like to see the alteration carried further than I have suggested.

The other matter is, to alter the Act so as to secure the repayment of loans made by persons to Natives for the purpose of enabling them to obtain Crown grants of their lands. If I did not see the danger of legalizing contracts relating to land made with Natives before the title to such lands had been ascertained, I should be strongly in favour of removing all restrictions upon such contracts; but I believe that allowing such contracts to be made would only be causing continual litigation between Europeans, frequent strifes between the Natives themselves and between the Natives and Europeans, and probably bloodshed. I do not, on the other hand, see the objection to securing to the European the repayment of money he may advance to a Native for the purpose of his obtaining a marketable title to his land. The Native must, in nearly every case, obtain pecuniary assistance to bring his claim before the Court; and if the law recognized and protected transactions entered into for the purpose of giving this assistance to the Native (and such transactions there must be so long as there is a Native Lands Court, whether or not the law recognizes them), it would have the effect of considerably extending and improving the operation of the Act, and would make dealings with Natives for their land look not like scrambling and cheating—the aspect they wear in many cases at present. To carry out my ideas, I have suggested, amongst other things, that the Court should inquire into these transactions, and validate them if proper and just; and I have suggested that surveyors should be placed in a better position for recovering payment from the Natives for services than they are at present.

Such an alteration in the law as I have suggested would lead, perhaps, to a still greater amendment—that of legalizing, by the Court, all contracts relating to land entered into by Natives who were declared by the Court to be owners of the land affected by such contracts, and the legislation would then be gradual.

There is another matter, not strictly coming within the scope of the proposed Act, but which requires immediate attention. There are cases in which Crown grants have been issued with a day named in the *habendum* clause, for which there is no warrant in law, and people have been dealing with the lands comprised in such grants on the faith that such grants are perfectly good. I know that others besides myself entertain doubts as to the validity of these grants, and as I think the Government is bound to take steps to remove these doubts, and to establish titles resting upon such grants, I beg you to draw attention from the proper quarter to the matter, so that some provision should at once be made for such cases.

I have, &c.,
J. C. MacCormick.

F. D. Fenton, Esq., &c., Native Lands Court.

No. 3.

Mr. Field to Mr. Cooper.

Sir,— Wanganui, 27th June, 1871.

I have the honor to acknowledge, with thanks, the receipt of your letter of the 17th instant, enclosing schedules showing state of grants for Native lands at Patiki.

The schedule of 26th August, 1870, came duly to hand, and its receipt was acknowleged by me at the time. It however did not show whether the grants referred to in it had actually been executed, or were lying in the Crown Lands Office unexecuted; and as some of the Natives who paid me, on my stating to them on its authority that their grants were ready, have since repeatedly asserted that they nevertheless could not get their grants, others naturally objected to pay, and I had reason to doubt whether the documents had actually been complete at the time I told the Maoris they were so.

I think it would be well if some machinery were devised whereby the Natives could have their grants delivered to them in their several districts. If, for instance, the grants, together with a memorandum of the amounts due on them, were forwarded, on their execution, to the Native Resident Magistrate of the locality, and he were authorized to receive and account for the money, it would obviate a good deal of the delay at present arising in the delivery of the grants, and remove a fertile source of unpleasantness between Maoris and surveyors, and of dissatisfaction with the working of the Court in the minds of the former.

As I understand an amended Native Land Act is being prepared, and as you may not improbably have something to do with its preparation, it perhaps may not be amiss to call your attention to the present unsatisfactory state of the law as regards the payment of survey fees. The fact that, on the establishment of the Native Land Court, a number of wandering surveyors undertook surveys at low rates, and, after being paid, disappeared without attending to prove the plans in Court, led to the issue of a circular *Gazette* intimating to Natives that they had better not pay till the work was proved in Court. This not only operated as an injnstice to surveyors who might have executed surveys for Natives who on investigation turned out not to be the owners of the surveyed land, in which case the surveyor could get no lien on the land, and had merely an apparent remedy against people whom it would be a waste of time and money to sue, but it had a direct tendency to impede the action of the Court by increasing the cost of surveys, and by compelling surveyors to apply for liens on the grants to delay their issue. It moreover emboldened Maoris to employ persons to survey lands to which they had doubtful claims, by making the recovery of his money by the surveyor practically contingent on the success of the claim. If they got the land the surveyor might get paid some time or other; if not, they would have sustained no loss and incurred no actual expense, beyond their own time, by prosecuting an unjust claim.

Of late, the Court has evinced an unwillingness to authorize liens on grants unless in special cases, and surveyors did not care to press for them, because lawyers held that such liens were of the nature of securities, which would bar suits for the recovery of the survey fees; and quite recently a further difficulty has arisen, in the shape of a ruling by our Resident Magistrate, to the effect that survey fees, not secured by lien, were neverthless irrecoverable in his Court, as being claims arising out of transactions in a superior Court. The whole question is thus, as you will see, in a considerable muddle. It seems to me that one of two courses should be adopted: either the circular should be withdrawn and the surveyors be left free to make their own terms with the Natives; or the amount of the surveyor's claim for his work, and attending in Court to prove it, should be marked on the map, and lodged in Court by the claimant as a preliminary to the investigation of his claim. The only objection to the latter course is the impecuniosity of the Natives generally; but this difficulty might be to a great extent removed if a less expensive style of survey were accepted as sufficient for the mere investigation of title. At present, the Court actually insists on a far more elaborate and expensive survey for Native lands than the Provincial Government undertakes in completion of the title to lands sold by it. This appears hardly fair to the Natives, and it has, besides, an obvious tendency to increase the difficulty of obtaining payment.

It has always seemed to me that, for the mere investigation of title, a sketch map prepared by a surveyor (Native sketches being very unreliable, and often actually showing everything turned end for end), showing the boundaries of the land, with its approximate area, and its position as fixed by a few prismatic bearings in reference to any neighbouring prominent natural features of the country, and which would cost but a trifle, should suffice; but that a proper correct survey should be required as a preliminary to the issue of the Crown Grant. By this course any serious expense prior to the investigation of title would be saved, and on the title being determined, those in whose favour the certificate was issued would have no difficulty in obtaining funds either from intending lessees or purchasers, or by means of such a mortgage as is at present allowed, to defray the cost of the grant survey. This course would in the long run add little, if anything, to the total cost of survey, as the surveyor, in running over the ground to prepare the sketch map, would get such a general knowledge of it as would greatly facilitate the subsequent work.

Anything tending to promote the successful working of the Native Lands Court is of such importance to the extension of settlement, and furtherance of the interests of the Colony generally, that I feel sure you will excuse me for noticing the above matters.

I have, &c.,

G. S. Cooper, Esq.,
Acting Secretary for Crown Lands.

H. C. Field,
Licensed Surveyor Native Land Court

P.S.—I observe one error in the Schedule of Grants. The survey fees on Kariate No. 2 were paid as long ago as 26th January, 1869, and I gave the tenant of the property who paid the money a memorandum of the satisfaction of the claim for him to forward to the Secretary for Crown Lands, and release the grant. I can only suppose he has omitted to send it, as this grant is one which the owner of the land has complained he could not get after paying the money. I enclose herewith a fresh memorandum.

No. 4.

Judge MANING to Mr. DICKEY.

Native Land Court Office,
Hokianga, 2nd September, 1871.

SIR,—

I have the honor to acknowledge the receipt of your letter of the 19th ultimo, with copy of a draft Native Land Act and communication from the Hon. the Native Minister, to the effect that he desires the opinion of Judges of the Native Land Court on the same. I, in consequence, enclose herewith some hasty notes I have made on different sections of this draft Act intended for the consideration of the Chief Judge and the Hon. the Native Minister, and feel it my duty to state that I can only look upon this draft Act with feelings of the most unqualified disapproval and not a little alarm; for should it become law without such alterations as would, in fact, altogether obliterate the original, it would most certainly be, as soon as it came to be understood by its practical operation, indignantly repudiated by the Natives, who would return to those feelings of distrust and hostility to the Government which I am glad to say have, for several years back, been gradually dying out in the North, and are now all but extinct.

I have, &c.,

A. J. Dickey, Esq., Chief Clerk, Native Land Court, Auckland. F. E. MANING.

Enclosure in No. 4.

Notes on some of the Sections of the Draft of "The Native Land Court Act, 1871."

Section 13.—I think it well that it should be left to the discretion of the Judge whether or not to employ an Assessor. There are many cases where the presence of a Native Assessor is not really required, and consequently the expense not necessary; but as the practice of in all cases employing Assessors has continued so long, an abrupt change to the contrary practice would not, perhaps, be advisable. It is sufficient to leave it to the Judge whether to employ an Assessor or not.

Sections 15, 16, 17.—I do not think that any formal division of Districts need be made, but there would be no harm in doing so, provided that the Judges are liable to be called on to act in any other part of the country on special occasions. The present law and practice seem sufficient.

Section 20.—Difficulties have arisen from time to time, but seldom entirely of the nature named in the explanatory remark on this section; the difficulties have chiefly been from delays and misconduct of the surveyors. I would suggest—not, however, without hesitation, and subject to fuller consideration—that it might be an improvement on the present system to appoint District Surveyors; each Surveyor to have the monopoly of all work required to be done in his district by Natives, with power to employ any sufficient or necessary number of assistants, and no survey to be valid or recognizable by the Court except done by him or under his supervision; but giving him no redress at law as against his employers, except in the way of enforcing any securities his Native employers might give him for payment previously to the work being entered into, which they all can do in one way or another. Some such arrangement would place the parties in this position: the Surveyor would be enabled to refuse to survey until he was secured for his payment (which should be at a fixed rate, determined by the Government); the Native claimant could not bring his claim into Court until he had either paid the Surveyor beforehand or given him security, and would be deterred from bringing before the Court, in most cases, any doubtful or vexatious claim; in fact, the expense of survey, which under such circumstances would be clearly unavoidable, would be a very strong guarantee that the claim was *bonâ fide*, or that the claimant himself believed he was right. The Court, however, should have it in its discretion to order, in case of a claimant who had been nonsuited, and the title given to a successful opponent, that the expense the first claimant had been to in making the survey, should be reimbursed to him by the person who had made good his title. Surveyors, I think, would be willing to accept appointments on these terms; but I only make these remarks as a rude groundwork out of which something better may be made, as I am at present pressed for time, and cannot give the subject the full consideration it deserves, or that I could wish. I wish to be understood that in any remarks I make here, I refer more particularly to all the country north of Auckland, from the Waitemata River and Kaipara to the North Cape, except where my remarks have an obviously general application.

Sections 21 and 22.—The present law and practice seem quite satisfactory and sufficient.

Section 23.—Absolutely impracticable and unnecessary. Under this section a Judge would have the whole of his time taken up in travelling about the country making extra-judicial and impertinent inquiries, and collecting one-sided and for the most part false evidence, but which would be only calculated to warp his judgment when the case actually came into Court—a Court in which the titles to estates and interests of the greatest value are decided by the Judges under deep feeling of responsibility, and of the necessity of doing strict justice, and which is indeed the only foundation for the surprising authority which the Court has acquired, without any support but a moral influence amongst the Natives, who, though they may in a very few cases appeal against a judgment, have notwithstanding full confidence in the rectitude of the Court and its intention to do in all cases strict justice. To take action under this section would at once destroy the confidence the Natives have in the Court, and would render the office of Judge contemptible. My practice has always been directly to the contrary. I never allow any Native to say one word to me on the merits of any claim until it comes before me in Court, and the result has been excellent. I am no longer troubled as at the beginning with attempts to prejudice my mind beforehand, and all parties have confidence in the impartiality of the Court, and very few claims are made which are not *bonâ fide*.

Section 24.—Many claims must be heard at the same time and place, or the business could not be got through at all; and as to making it a rule to hear claims at, or close to, the land claimed, this would be to go as far as possible to insure a one-sided investigation, and often a wrong decision. The reasons for this opinion I have fully stated formerly in a letter to the Chief Judge of the Native Land Court.

Section 25 and Explanatory Note.—Natives are always perfectly able to manage their own cases in Court. In many instances I find them extraordinarily clever as pleaders, and they always suffer, on both sides, where, in any opposed case, they have been prevailed on to employ European agents, especially lawyers. The present law and practice are sufficient; there is no need to endeavour to make the Court popular; it is highly so.

Sections 26, 27, see explanatory remark, Section 25.

Sections 28, 29.—The present law and practice quite sufficient.

Section 30.—I think that in the cases referred to in this section the Court should have full power to decide as to what restrictions should be imposed on alienability of land, and whether any should be imposed. I think it very necessary and important that the Court should have such discretionary power.

Sections 31, 34, 35, 36, 37.—Such interference between the buyer and seller would be politically unwise, and constitutionally wrong, and highly dangerous. The danger intended to be guarded against by Section 31 does not exist, or only to a small degree, in the Northern districts, where the Natives do place even, if anything, too much value on land. I think that where the danger alluded to in the explanatory note on section 31 does exist it might be averted in a more simple manner. The procedure laid down for adoption in sections 34, 35, 36, and 37, I am bound to say I think generally impracticable, quite unnecessary, and highly dangerous. The Natives in all the Northern districts, and particularly in the Bay of Islands district, understand well what their own rights are; they are extremely anxious to hold their lands by tenure from the Crown, in the same way as lands are held by Her Majesty's European subjects; they are very determined to do as they choose with their own, and are not at all likely to ruin themselves by excessive or improvident land sales, and would, I feel sure, resist such interference and such a state of tutelage as the sections above mentioned would impose upon them, but will submit willingly to such restrictions on alienability of lands, or other conditions, as the Court can show are prudent, desirable, or necessary for their own interests or the interests of their children. I am bound by my duty to the public to speak plainly what I think on this subject, for I can anticipate nothing but danger and difficulty should this proposed Act become law.

Sections 38, 39, 40.—I think the present law and practice sufficient, and well understood by the Natives.

Section 41.—This section appears to me unnecessary, the present law being sufficient. The only remark I would make is, that every decision by the Court should be founded on a full investigation, and that in respect to the "peace of the country" the Court should endeavour to come to a just decision in every claim on Maori usage and custom as its first object, and that this will insure the peace of the country in as far as any action of the Court can secure it.

Section 42, of Fees.—The fee of ten shillings for application for inquiry into title I do not think advisable. The present scale of fees fixed by law appears to me sufficient, the Court having discretion in applying it.

Sections 43, 44, 45, 46.—No remark necessary, present law being sufficient.

Section 47.—There can be no objection made to this section, and it might be useful to decide any doubt as to the reading of an Act, but I do not see at present any likelihood of a question in English law arising in the investigation of a title founded on Maori usage and custom.

Section 48.—Present law sufficient, and I think better.

Section 49.—I think that in all cases of land claims contested between Natives and the Government that the Court should not have jurisdiction, except only when the matter has been referred to the Court by the Governor, and in such case I think the proceedings should be of the nature of an arbitration; but I believe it would be better, for many reasons, that no such cases should be referred to the Court at all; and I think the Government would, in most instances, settle such disputes more advantageously by arrangements which might be made between its agents and the Natives. I, however, do not wish to be understood as speaking positively on this point.

Section 50.—Very proper.

F. E. MANING.

2nd September, 1871.

APPENDIX

TO

COLONEL HAULTAIN'S REPORT ON THE WORKING OF THE NATIVE LAND COURT ACTS.

CONTENTS.

The Hon. D. McLean to the Hon. Colonel Haultain.

(A. No. 92.)

Sir,— General Government Offices, Auckland, 13th February, 1871.

It being desirable that information should be procured with reference to the working of the Native Lands Acts, the Government will be glad if you will undertake this duty.

An impartial report upon this subject, embracing facts respecting the operations of the Acts, including the surveys and other expenses incidental thereto, the alienation of the land by the Native owners, and the expenses to which the Natives are subjected in establishing their title, will be very valuable as data upon which some revision and improvement of the existing law could be proposed to the Legislature.

I have, &c.,

The Hon. Colonel Haultain, Auckland. Donald McLean.

Statements of Native Chiefs.

26th April, 1871.

Tamati Waka Nene likes the Native Lands Court very well. The Maoris have no objection to it. They approve of it. Why should they not? it is for their advantage. They do not part with too much of their land at the Bay of Islands. "I have plenty of land left, and so have my people." They may waste some of the money that they receive for what they sell, but they pay their debts, and purchase such things as they want with it. It would certainly be a good plan if a portion of the proceeds of all sales was invested for the benefit of the seller and his children, say £50 out of every £100. I dare say all the Maoris would not approve of this; but if I had obtained a title to the land that I recently claimed, and which was refused me by the Court, I intended to have placed a portion of the money which I sold it for in the Bank, and have distributed the rest amongst my people. I could not say how much land should be reserved for each man, woman, and child. Let them please themselves.

In former days, if we had any dispute about land, we settled it by fighting; now it is done by the Court.

Witness—Geo. Brown. Tamati (his x mark) Waka.

Joint Evidence given by Te Wheoro and Paora Tuhaere.

Constitution of the Court.

Auckland, 18th February, 1871.

Instead of the present system of investigating titles to Native land, the Judges and Assessors should be done away with, and six Maori arbitrators should be appointed by opposing claimants, three

by each side, who should hear and decide the cases; and if they agreed, their decision should be ratified by an officer of the Government. This officer might be the Resident Magistrate of the district, and should certainly be a local officer. Three of the present Judges might be appointed to districts for this purpose, but they should not move from place to place. (Paul would rather continue the Court as it is.)

If the arbitrators cannot agree, they should be discharged and others appointed, but a majority should decide the verdict; it is not necessary that they should be unanimous. Did not know that juries might be appointed; had never heard that this provision was in the Act, and had never seen a translation of the Act into Maori. Would not have the same objection to the Court if there were juries, but consider that arbitrators would be preferable. (Paul would prefer the juries to the arbitrators.)

Jurors should be chiefs or intelligent men, and should not be interested in the cases they have to try. In important cases, such as the Aroha, they should be brought from a distance, and should be paid 5s. a day. The Government should pay one half, and the claimants the other: the losers of the case should be made to pay the costs, and claimants should deposit a sum in advance to meet such expenses. The verdict of a majority should decide the case, and their decision should be final. There should be no rehearing whether the judgment was right or wrong. Are not sure whether the abolition of the system of rehearing would be agreed to by the Maoris in general; those who had suffered in former instances would want some redress.

Assessors.

Would do away with Assessors altogether. They are of no use, and have little or nothing to say to the cases that are being tried; they sit like dummies, and only think of the pay they are going to get. Wiremu Hikairo is perhaps an exception, but he was taught at school. None of the other Assessors have done any good, and always support the side in which they have friends or other interest. Te Wheoro said, "I was an Assessor and have sat on seven Courts, but now I have sent in my resignation. I have always been opposed to the Court from the very commencement. It is a pity that the Maoris were not consulted before the Act was brought into the General Assembly. You are obliged to apply to us now for advice and assistance." At present there is not sufficient notice given of the sitting of the Court; it often happens that we do not hear of it till within a month of the time appointed. We should have two clear months' notice if the system of arbitrators is to be adopted. The Court should sit as near as possible to the place where the claims are situated, so that the boundaries may be viewed or pointed out.

Certificates or Crown Grants.

Would not limit the number of names in a certificate or grant to ten; in some cases, say where there are thirteen or fourteen owners, all the names might be inserted. Would make twenty-five the maximum number in a large claim, such as the Aroha. Each hapu should be represented, and the people interested fix what number they please within that limit. In many cases the Natives would have inserted more names, had the law allowed it. Of course it would be a good plan to subdivide the land, but many of the people have not money to pay for the surveys. It has occasionally happened that the rights of those whose names have not been entered in the grants have been sacrificed by the grantees, who have sold the land and defrauded the others out of their share.

Reserves.

Sufficient land has not hitherto been reserved by the Court as inalienable; in some cases the wishes of the owners have not been carried out in this respect. Te Wheoro wished a restriction to be placed on the sale of the Pukekawa Block (opposite Mercer) but his wishes were not attended to, and some of the land has been already sold by the Ngatiteata, and by one of his own tribe, who held about 5,300 acres which he desired to make inalienable. From 50 to 500 acres should be reserved for each Maori man, woman, and child, according to the land they hold. They might be allowed to lease some of it, but not to sell it on any account. It would be a very good plan if a portion of all proceeds of sales could be placed in a bank or otherwise invested, so that the sellers might save it from being squandered, and draw interest on it. About £30 per cent. might be devoted for this purpose; but it would be difficult to induce all the Maoris to agree to this.

Lawyers.

Would absolutely prohibit by law the employment of lawyers before the Court; they know nothing of Maori custom, and go into all sorts of irrelevant questions, and cause a great deal of unnecessary expense. If one side has a lawyer, the other must employ one also.

Interpreters.

The interpreters are worse than the lawyers, for they prompt the witnesses as to what they are to say, and often advise them to state falsehoods; they also are an unnecessary expense. The Court Interpreter can do all that is necessary. They charge £3 3s. a day, or £2 2s. if a lawyer is employed.

Surveyors.

The evil of the present system of surveying is very great, and it would be much better to have Government surveyors, who should do all the work, and the claimants should repay the expense to the Government. Now it occasionally happens that the same land is surveyed more than once, as opposing claimants employ their own surveyors for the same piece; this could not be the case if there were a Government surveyor. Surveyors charge from 9d. to 2s. 6d. per acre for their work. They once employed the Natives as chainmen, &c., at 5s. a day, and their pay was deducted from the total amount to be paid. One surveyor has worked as low as 4d. an acre, but his plans were not satisfactory to the Court. Don't know his name.

Aroha Case.

The Ngatimaru, to whom the land has been now awarded, will not venture to survey it, as there would certainly be war over it. Had the land been divided between the contending parties there would have been no fighting about it, for there would have then been some justice about it. Te Wheoro does not accept the judgment of the Court; it is false and unjust, and not according to Maori custom. The only way to settle the matter peaceably will be for the Government to divide the land. If the Crown grant is given to the Ngatimaru, all the friendly Natives of the other tribes will join the Hauhaus to fight for it. If the land is opened to Europeans by the Ngatimaru, there will be fighting. The Waikatos would not let the Europeans take possession, and the Hauhaus would fight them. "Why should the Pakeha go and take the land with the Ngatihaua fires still alight upon it?" It would have been better if the Court had refused to hear the case. It was no doubt the Ngatihaua who first applied for the investigation; it was because the Ngatimaru sold adjoining land, and the former were afraid that they would be selling some of this block. Very likely the Ngatimaru think this last Court a very just one, but they found fault enough with the first that gave the case against them. Had the judgment of the first Court being confirmed the Ngatihaua would undoubtedly have surveyed, in spite of the Ngatimaru.

The expenses of the Ngatihaua, in this case, which lasted about three months, were as follows:—

	£	s.	d.
Paid to Mr. McCormick*	93	0	0
Paid to Mr. Nicholls (a witness)	12	7	0
Mr. Preece, Licensed Interpreter	430	0	0
Government rations, paid for	21	0	0
Other food purchased	61	10	0
Passages from and back to Waikato	50	10	0
	£575	7	0

The payment to Mr. Preece includes £11 or £12 due on the last case, and is not all paid yet, there is still £80 or £100 to be paid.

The under-mentioned ten chiefs agreed to contribute £43 each to pay Mr. Preece: Te Wheoro, Raihi, Hakiriwhi, Hori Kukutai, Tamihana Tunui, Te Waata, Kereama, Penetito, Hohaia, and Hetaraka Nero.

WIREMU TE WHEORO.
PAORA TUHAERE.

WI TE WHEORO to the Hon. the NATIVE MINISTER.

FRIEND MCLEAN,— Auckland, 8th April, 1871.

Greeting: This is what I have just thought of. Respecting the work of the Native Land Court, troubles are commencing to arise from it. Formerly it was not like this. This is the reason it is thought that it would be better if lawyers, agents, and interpreters were disallowed in the Native Land Court, as they make so many expenses, the money goes and so does the land. Behold, there is the survey, one; the Court, two; the lawyers, three; the Native interpreters, four; the Crown grant, five; and the giving of the land to the other side. The burden of this is great. Nothing could be said if it was only the Court and its Interpreter; do not allow any others. The other interpreters only teach the people to speak falsely in the Court. The lawyers and interpreters are not very conversant with Native customs. There is no reason why lawyers should be employed, as the interpreters explain to the Court the nature of the claims. This is much better than the lawyers and agents. If this plan was adopted, the expense would not be much, and the only expenses for the people to pay would be the survey and the Crown grant. The Government should appoint the surveyor, so that no other surveyor would be allowed to survey after him the same piece of land, so that there be no after confusion owing to other surveyors surveying the same land, for which there is no cause. The Court only recognizes one surveyor, and the rest are left to cause trouble with respect to the land, but it would be much better if the Court settled it. Sufficient.

WI TE WHEORO.

PAORA TUHAERE to the Hon. the NATIVE MINISTER.

FRIEND MCLEAN,— Auckland, 5th April, 1871.

Salutations. I have been considering for some time the cause of this judgment of the Judges of Native Lands. Friend, I fancy the wrong is of the Native Assessors, or of the European Judges. Friend, I think we shall see trouble owing to the works of the Judges of Native Lands. This is what I find fault with: land which another Judge investigated at first and gave to another people whom he deemed were the rightful owners. Subsequently a rehearing is asked for that land; different Judges are appointed, the former Judge does not sit. This Court reverses the judgment, and gives the land to another tribe. This is the cause of trouble by the Court. This is another source of trouble: the surveyors, who humbug the Natives, and cause a great deal of trouble. Let the Government put a stop to these surveyors, who humbug us; these persons have licenses, but the surveyors ought to be Government men; then it would be good.

This is another fault: the lawyers. Let their work at Land Courts be put an end to; it is not as if they were acquainted with their case, the Native does that part. Behold at the Court of the Aroha the money was spent for no purpose: the lawyers did no good.

This is the reason, Mr. McLean, that I tell you my thoughts about the Aroha. "Let you and your

* Included in the £430 paid to Mr. Preece.

Council of Europeans consider about the Aroha," as I know that that there will most likely be some evil with respect to the Aroha, because it is land which both parties claim; but if the judgment of the Court had been clear (bright) to both, it would be right and clear, and both sides would be satisfied. That is all.

To Mr. McLean, Auckland. From PAORA TUHAERE.

WI TE WHEORO to Colonel HAULTAIN.

To COLONEL HAULTAIN,— Waikato, 23rd May, 1870.

I now submit to you further opinions subsequent to those expressed at our interviews, and which you wrote down; that is to say, the means by which questions affecting Native lands can be properly settled.

1. Let no lawyers be allowed to conduct cases respecting Native lands when the Maoris are stating the ground of their titles to land; because the lawyers know nothing whatever about the titles of Maoris to land; it would be by far the best plan to let the Maoris prove their titles themselves. Large sums of money are needlessly spent upon lawyers.

2. The Native interpreters are just like the lawyers. There are a great number of interpreters, and what have they to do? The interpreter to the Court can do what is required. Further, they teach the Maoris to trump up stories, and also induce them to make statements at variance with facts. Money is needlessly spent (in this direction).

3. The surveyors. There are too many surveyors engaged in cutting up one piece. Only one is authorized by the Court; but others go to survey the same land, and thereby cause trouble. The Government should engage the surveyor, and one should not interfere with the work of another—the money paid by the Government should be repaid by the person who asked for the survey to be made.

4. The Native assessors in the Native Land Courts; they sit there doing nothing. They are like blocks of wood, and are of no use. The European Judge decides as he considers right. The assessor pays no regard to the questions affecting the land, and in some cases he is biased through his relationship to the parties. I therefore say, let their services be dispensed with.

5. The Native Land Court.—When the Native Land Court was first established I said, "This thing, the Court, will not be a good thing;" and I wrote to the Government requesting that the lands in Waikato might not be adjudicated upon by the Court, but that arrangements should be made respecting them by some person appointed by the Government. The Court having stated that, if a person did not appear in Court on the day fixed, the Crown grant would be issued to the person who made his statement in Court, even though it should be false, the Court could not upset it, seeing that no person appeared to object. The land is gone through a man's absence, and it is lost through lies. It was therefore thought that the parties should go to the Court. I then expressed my opinion that all Maori customs should be deemed to affect Native land. The land belonging to a person was lost to him through the false statements of another, or through defects in his own statement; even though the land should have belonged to his ancestors, and though he should have occupied and cultivated it, either in former days or lately; should he not make his statement properly before the Court, the land goes into the possession of the liar. Titles to land are derived through many things—through wars sometimes, and sometimes through women. Our old proverbs go to show that the only things which were prized in former days were land and women. Land was taken on account of women, and also through fighting. Should one side be beaten, the land is taken; should the conquerors be willing to leave some of the conquered on the land, they may live there, but without *mana*, and without any right to the land. Another ground of title is when a man saves another man's life—he whose life is saved giving his saviour some land. A man who had too much land for his own occupation, but who knew that the lands were his own, would locate men upon them to work for him; should these people behave badly they would be killed, and such persons lived in great fear in former times; but now, since the Court has been established, such persons do not care for the chiefs to whom the land belongs; they say that that Court will protect them and their lies, and state that their fires are alight on the land; and so it goes. There are cases also in which land has been fought for but not taken possession of; the original owners remain, because the place from which their enemies came was far distant. There are many other grounds of title which I cannot go into here.

I therefore say let the Court cease, but let a Maori runanga settle these questions, for the Maoris themselves know how to deal with them, so as to arrive at a decision as to the titles of Native lands.

Let it be for the Magistrates of the different districts to carry out or give effect to the decision of that Maori runanga. Let three of the Judges of the Court be retained to act within different districts, namely, Mr. Rogan for Kaipara; Mr. Fenton for Auckland; and Mr. Smith for the South; and let each Judge (Magistrate) act within his own district. The runanga should go into the cases, and submit them to the Judge. Should he have any statement to make it should be made before the runanga, who should then give consideration to it; and if they all approve, let the matter be finally settled.

The runanga should consist of six members or more, a seventh should act as Chairman; he should be an able man, and one who will display no favouritism. Should the runanga choose their man, his name should be submitted to the Judge, and the decision should be final. The runanga should go on to the lands the cases of which they are going into, or near to them, and there hold their sittings, so that they, being near, may be able to inspect the marks which may be referred to in the statements made to them. Persons from a distance from those lands should form the runanga. The pay for the members of the runanga should be five shillings each per diem, until the Court's sittings are over. The owners of the land should pay half, and the Government should pay half. Should the decision be given against a person who has appeared as an objector, such objector should pay the money which the person in whose favour the runanga have decided would be called upon to pay. Let the money be paid first, and then let the runanga be held, or let notice of a claim having been made be given; this

would frighten the liars. With reference however to such lands as Te Aroha, persons should be chosen from a tribe which is distant from those between whom the dispute exists; and no person should be chosen who has had anything to do with their affairs from the old days down to the present time. Each side should choose their men; should it be seen, that one side has chosen a man who may be favourably disposed towards them, the other party should put him out.

Rehearings of cases of lands decided upon by the runanga should not be granted, except where the decision has not been given, because when a rehearing is granted lying tales are invented. The true statement is that made at first; after that, statements are invented, and justice may be set aside by lies.

Had this course been adopted formerly, persons would not have asked for rehearings, excepting where a man has been absent in another island or country, and has been perhaps forgotten by his relatives.

The notification should be issued by the Judge, and the names of persons proposed for the runanga by the parties should also be shown. Let the notice be issued two months before the runanga is held. It should call upon all the relatives of the owner of the land or his witnesses whom he may know to appear; should they be absent the fault will be his. Had this been done long ago, had it been left to the Maoris to go into the question respecting their lands; they could have given their decisions, and then the Court would only have had to carry them out. The Maoris would not have made any objections, because they themselves would have decided, and all that the law would have had to do would have been to give legal effect to the decisions.

As matters are now, however, there is great confusion through that Court. It is like the time when the Maoris used to sell land to the Government, when a man would simply state, "My land is at such a place, and it is called by such a name, give me an advance to seal the bargain; give me so much money;" it would be given and would go for nothing, the land being the property of another person altogether. In like manner, with the present system of investigation, no matter where the land is, it is not inspected, and the land becomes the property of him who has made the most plausible statement; it goes, together with the houses and cultivations which are upon it, to a stranger. In some cases, perhaps, the Judge of the Court has seen the cultivations and the houses, but he only pays attention to the statements made by the parties before him, and says that it would not be right for him to speak of what he has seen, but only to take what is stated in the Court.

I myself am a Land Court Assessor, but I have written to the Government tendering my resignation of that office. My opinion with regard to the Land Court is, that proper decisions are not arrived at. I may state that Mr. Rogan is the man whose proceedings are wise so far as this, that he allows the Maoris to come to some arrangement themselves, and that is why the disputes respecting land in that district have been amicably settled.

Sufficient. It is for you to collect these points. I do not think that the expenses will be at all great.

WI TE WHEORO.

WE TE WHEORO to the Hon. Colonel HAULTAIN.

To COLONEL HAULTAIN,— Te Kohekohe, 14th June, 1871.

Salutations to you. I have discovered a course to be pursued in cases of lands which are leased by Maoris to Europeans. It is known that a great deal of money is swallowed up by the lawyers; the land may be small and the rent trifling, but the legal expenses consume the money, and the owner of the land is left lamenting in vain, for the lawyer and the interpreter have swallowed up the money. It is not that the lawyer's work is great. No, but he knows how to delay work; he will see a person for one minute on one day, and then put an end to the conference postponing it to a future day, and that is how the money goes. It is therefore considered that this will be a good plan for rendering such dealings with Maori land by lease less expensive. An interpreter should be authorized by law to make leases of land, and he should have a license from the Government authorizing him to interpret. He should be a good man, and without deceit; the owner of the land should choose his own interpreter.

In that case the expense would be small, and the owner of the land would have some money to receive. It would be a good plan if the Government were to manage these leases on payment of certain fees.

Should a European desire to obtain a lease or conveyance of land, he should pay that agent who has been authorized by law to act, and that would relieve the Maoris, for all these dealings are new to them.

This is another point about the interpreters. Some are good, and some are bad; it is therefore considered that the licenses of the bad interpreters should be cancelled, for their system is to induce the Maoris to give up their lands or other property, under false representations. When trouble arises, then for the first time the Maoris find that their consent has been given under a misapprehension, caused by false interpretation on the part of that class of interpreters, in order that the agreement may be quickly come to, and that they may get their fees. What do they care should trouble come upon the owner of the land or other property? These things have a bad effect upon the Maoris; they are distressed, and one race holds aloof from the other. The Maori says the European is bad, and is deceiving him, and the European says that the Maori is bad and is foolish; thus divisions are caused between them, which will result in evil. Sufficient.

Your friend,

To Colonel Haultain, Auckland. WI TE WHEORO.

HEMI TAUTARI, Bay of Islands, in reply to questions forwarded to him.

THE Native Land Court has worked satisfactorily in the Bay of Islands up to the present time. I see no faults in the system, and therefore can offer no amendments.

In this district the Natives generally appear contented with the Judge of the district; but, at other places where I have been, the Natives seemed to prefer strangers to hear and investigate their claims.

The Natives approve generally of assessors sitting with and assisting the Judges.

Chiefs of high rank and intelligence would as a rule have no objection to sit as assessors at distant places, though sometimes they might object to go; it would not be that they considered the position derogatory.

It is not advisable that a claim should be investigated at the instance of a decided minority of the claimants. Such claims are always well notified and ventilated amongst themselves before being brought before the Court.

The use of juries has not been suggested by the Government, but in difficult cases would be advisable. But why not employ three or more Native assessors as a jury? Native jurors could be depended upon when not directly interested in a case.

The constant difficulty of changing the names in a deed at the death of any one whose name might be inserted therein, would be an objection to having a great number of names entered in the deed, and sometimes great trouble would arise in trying to subdivide the land; the better plan would be, that a certain number should be chosen by the claimants to have their names entered in the deed, on behalf of the whole number; the present number of ten is sufficient. All should agree in leasing, in the same way as alienation by sale or mortgage is now prohibited without consent of the whole.

I do not know of any instances, in which the right of persons interested, other than the grantees, have been disregarded. I am of opinion that certificates should be issued in the first instance, as a saving of time.

Should the land be required for sale, surveyors' usual charges are:—For large blocks, about £2 per mile, the lines being cut by the owners of the land, the smaller pieces by the job, the plans to be charged extra. If the Natives have the money, they pay on completion of the work; if they have not, it remains as a lien on the land. It is immaterial whether the land be surveyed by Government surveyor or not.

I cannot give any instance of the present system of survey injuring the Natives.

Licensed interpreters cannot be dispensed with, unless the Judges and surveyors understand the Maori language. As far as I have known, the Natives have confidence in the interpreters who have been already licensed. I do not think that they protract business for the sake of putting money into their pockets. Maoris could be employed as agents; but there are only one or two in this district who understand the English language and law sufficiently well. I do not think the presence of lawyers desirable. If I had land to pass through the Court I would not employ lawyers, as they lead only to needless expense and delay.

I think sufficient land is reserved for the Natives. If the land is of good quality, five acres for each would be sufficient; but more should be granted if the land is of inferior quality. I should approve of a portion of the purchase money being invested for their own or their children's benefit, but but do not think the Natives generally would do so. Half the purchase might be so invested or reserved.

I do not think it a good plan that Native land should be sold by auction only.

In very few instances are the Natives parting with their lands too rapidly or to too great an extent. The Natives get a better price now than when the Government were the only purchasers; the only advantage of the old plan was, that the Government bought all the bad land, which private individuals will not do.

I think it advisable to discontinue the practice of granting rehearings, as it disposes the losing party to be dissatisfied with every judgment. It would be better to let the first judgment stand.

Memo. to this by Mr. Barstow.

Tautari was the Assessor at the first "Aroha" hearing, at which the land was adjudged to Ngatihaua. This decision was reversed at the rehearing, and judgement given in favour of Ngatimaru.

HONE MOHI TAWHAI to Mr. BARSTOW.

To MR. BARSTOW,— Waima, 20th May, 1871.

Friend, salutations. Your letter has come to me, written by you on the 8th day of May, 1871, in which you ask me to speak my thoughts in respect to the laws of the Native Lands Court.

Yes; these are the laws that I see are wrong, and that breed trouble in the hearts of the Maori people:—

1. The money, £1, which is asked from men who come to oppose claims in the Court. The reason it is wrong is, it is notified in the *Gazette* that all parties who have any claim on land (about to be heard at the Court) are to appear there (at the Court). They go according to the call of the *Gazette*, when the pound is thrown at them; so the thoughts of the people get wearied by reason of the fear of that pound.

2. The lawyers. They should be done away with in the Native Land Court, because we see a great deal of the lands of the Maoris have been spent in this looking for lawyers to see to their rights.

3. The surveyors. The Government should consent to their going to survey, then their going would be right; for much trouble arises with the Maoris through the going of the surveyors (to survey).

4. The interpreters. I see some wrongs (mistakes) in their interpretations of the language of the Judges and of the Pakehas engaged in the Court. These deceitful interpreters are the sons of the missionaries.

5. The Native Land Court. It is good exceedingly. Through this we are admitted into the chief works of the Government.

6. The rule for the Judges and Native Assessors. They have no faults, (except) the laws lead them to sin; for the laws call to the Judges of the Native Land Court, "Follow after me; do not jump aside, lest you do wrong."

7. The deeds. Let that be done away with—that is, the paying for deeds; that thing also has the effect of giving the Land Court a bad name.

8. The payment for transfers. Let that also cease; that thing also gives the Land Court a bad name.

9. The benefits of the Land Court that I perceive are: We are admitted to vote for the man to make laws for the whole people. Another is, through the Land Court, the deaths of the people are fewer. Were it not for the Land Court, fighting would be the constant work.

These are all the words of your loving friend to you.

From HONE MOHI TAWHAI.

WIREMU HIKAIRO, an Arawa and assessor of the Native Land Court, and also a clerk in the Chief Judge's Office, states:—

20th April, 1871.

Translation of Acts.

That the Acts referring to Native Lands should all be translated, he has never seen a translation of the Acts of 1865, though he has been in the Chief Judge's Office for three years. He paid himself for printing at the Bishop's press, some portions of the Acts, the 75th clause of the Act of 1865, and the 33rd of that of 1867. The Natives would gladly read the Acts if they could get them; and there are intelligent men amongst them who are well able to explain them to others. If they had been generally circulated, defects might have been found out and remedied before this.

Judges.

If Judges were located in particular districts, they would soon be acquainted with all the people, and with their respective interests in the land; they could settle cases before they were heard in Court, and remove difficulties. They would also know the character of the people, and whether their statements could be relied on; if the evidence was incomplete, they might still be able to give a correct judgment from their general and previous knowledge of the circumstances. There would be a fear of their being accused of partiality towards their friends, or towards those who were supposed to be their friends, but on the whole it would be a better plan and more satisfactory to the Maoris in general, to have one permanent Judge in each district.

Assessors.

Believes that the Natives desire to see assessors on the Bench. Those who lose a case are apt to accuse the assessor of partiality, and to conclude that it would be better to do without them; but he (W. Hikairo) has no objection to them. There are some intelligent men amongst those generally employed, and there are others who care very little for the duties of their office, and think only of the pay they are to get. Has only known one case in which a jury was applied for; the jurors were taken from among the by-standers; twelve were objected to, and five were impannelled. They were of no service on that occasion; they could not understand all that was going on, as lawyers were employed in the case, and a great deal of conversation was not interpreted. Besides, these men could not pay the same attention when statements were made through an interpreter as when they were given direct by a Native. When he (W. Hikairo), who was the assessor in the case, addressed them in Maori, they woke up and paid attention to him. It would not do to select jurors at random from among by-standers in important cases, such as the Aroha. They must, under such circumstances, be brought from a distance, and be quite disinterested in the matter. If the merits of the Aroha case could have been discussed by an ordinary Maori runanga they would perhaps have arrived at a right conclusion, and perhaps it would have been more satisfactory to them, and they could have brought it to the Judge for ratification. Before the Act was in operation, a disputed land case was settled at Rotorua* in this manner, and the runanga arrived at a conclusion which was approved of by Mr. Clarke and Mr. Smith, who had been asked by the disputants to inquire into it. But he fears, after all, that there would be so much trouble and expense in summoning jurors from a distance, that it would be scarcely possible to carry out the system. The one case in which it was tried was not satisfactory.

Certificates and Crown Grants.

The limitation of ten names to any certificate or Crown grant is not approved by the Natives, as the law now empowers those ten to lease the land for as much as twenty-one years; and if leased, no subdivision can take place until the lease has terminated. In important cases, such as the Aroha, would require one or two persons from each hapu to be named as grantees, although that would bring the number to as many as twenty; if hapus had unequal claims, one representative from each of those least interested would be enough, and they should not have power to lease until the land had been subdivided. In case of reserved land, the names of all persons interested should be entered in the grant. Knows several instances where the rights of some of the persons interested have been disregarded because their names were not included in the grant. There was a block of land at Napier called Heretaunga, containing about 19,000 acres, in which fifty persons or more were interested (it was before the Act of 1867), and a portion was mortgaged by Tareha, one of the grantees: some other grantees, including Henry Tomoana and Karaitiana, incurred debts to the amount of £8,000; and being threatened with law by their creditors, they had to give up the land in payment of the debts. There are other similar instances, where the outsiders get no part of the purchase money. Had heard of a case in Waikato where one of the owners, Te Wharara, of a large block called Hinuwera, asserted that the land was sold by the grantees but that he got no portion of the money.

Investigation of Claims.

It is a bad arrangement allowing any one Native to demand the investigation of his claim in any block of land. Applications are often made by single individuals without the knowledge or assent of the tribe, and the notice appears in the *Gazette* before any of the chiefs know that it has been made at all. As an instance, at Maketu, a man called Reti Reti Tapsell applied for an investigation of his claim in a

* Ngamahanga Block.

block of land called Pukaingateru, when the whole of the Arawa were unwilling that the case should be brought before the Court. It was put off from different causes, at two sittings of the Court. On the second occasion, the Arawa protested in Court against the hearing; but at the third sitting the case was heard, as the Arawa did not protest, though they still objected to the investigation. They had proposed to partition the land by Maori runanga, and Reti Reti, without saying a word to the others, applied to the Court. The chiefs were very angry, but they could not prevent it, because the Court always listened to what the applicants said. In a similar way most of the Arawa lands were brought into Court against the wishes of the majority, who wanted to settle amongst themselves how the land was to be divided, and then to bring it into the Court for ratification. There are some pushing people who are always ready to come into Court without considering what the consequences may be. Reti Reti has not paid for the survey of that land yet. Turner first surveyed it for Reti Reti, and then Mitchell surveyed it for the Tapuika, and he has to be paid also; Turner's claim may be £250, which Reti Reti has to pay. This evil might be remedied by causing the application to be posted up at the Magistrate's Court, before it was notified in the *Gazette*, and copies sent to the principal chiefs of the district describing the boundaries, &c., so that a protest might be made if there was an objection to the case being proceeded with, and should no protest be made within a certain time the case should be advertised for hearing.

Surveyors.

Surveyors charge by the day, or by the acre, or by the mile; it is sometimes as high as 2s. 6d. per acre, or £2 per day, or £1 a day for each block where several are in hand, even if there were eight or ten blocks; and there is much extra expense incurred by more than one surveyor surveying the same block of land. Besides the block above mentioned, another piece of land was twice surveyed at Maketu (a large block called Papanui): Reti Reti employed Turner, and the Tapuika employed Mitchell, because the latter thought their boundaries were not properly marked down. The same thing occurred in three other cases, Rauotehuia, Ohineahuru, and Waipumuka. The first was surveyed three times over by different surveyors, and had to be paid for each time. The surveyors are not yet paid, though some of the work was done in 1867; but it is their own fault, for they were told what would happen, and warned not to go on with the work, so that their eyes were open. To remedy this evil, Government surveyors should be appointed in each district, and the amount levied on the land. Does not think there would have been any difficulty about paying for the survey, if the Natives had wished it done and were satisfied with it. The Government have been in the habit of advancing money to the Natives in former years, for mills &c., which was always repaid. Surveys should invariably be made before a Court hears a case, and in this way many disputed cases might be settled before coming into Court.

Lawyers.

Lawyers should be excluded from the Court; it is to be expected that they should prolong cases in order to get more fees. I think the Aroha case was unnecessarily prolonged. The Natives employ lawyers, as they think they will get more favourable judgments for their side; and if one party employs one, the other must have one also. They like to follow the European custom, expecting to get some advantage by it. Maoris might be employed to conduct cases as agents, and they should be supplied with translations of all the Acts bearing on Native lands.

Interpreters.

The licensed Interpreters might be done away with. The impression amongst the Natives, is that some of these officials persuade them to get their lands surveyed, tell them that there will be no difficulty, and keep in the background all that is unpleasant or unsatisfactory; they do not tell the whole truth, and the Maoris are deceived and disappointed. (There are some who are trusted and held in good repute.) I have heard of others getting Maori signatures to documents, by telling them pleasant things, and afterwards the Native finds himself in unexpected difficulties. When the Court was sitting at Napier, he (W. Hikairo) was assessor, and it was stated openly by some Natives, that it was owing to the representations of the interpreter that they had been induced to mortgage their lands; and it was not till too late, that they found out their mistake. Ohika Karewa was one instance, Wharekahu another, where they were induced to mortgage, and their lands were compulsorily sold by auction. The Natives should not be allowed to mortgage their lands, but they would not all approve of such a restriction.

Reserves.

At least 50 acres of land should be reserved for each Maori man, woman, and child; a portion might be leased, but it should never be sold. Reserves should not be made in one part of a block only, but in such places as the Natives pleased.

A certain proportion of the proceeds of all sales of land should be invested for the permanent benefit of the seller and of his children, or otherwise all will be squandered away; 10 per cent. might be set apart. Could not say whether this system would be agreeable to the Maoris in general.

Road Rates.

Maoris are hardly aware that they are liable to pay road rates, for dividing fences, and other taxes, when they have received a Crown title. The laws have not yet been translated, so that they know nothing about it. They will be dissatisfied and grumble when they find out that they have to pay these liabilities, and will accuse the Europeans of having deceived them when they represented to them that a Crown grant was so good a thing.

Aroha Case.

There would be trouble over this Aroha decision if the Natives were not afraid of the interference of the Europeans. I think they would fight but that they believe the soldiers would be sent against them. I believe it would have been better if the case had never been brought before the Court. If the Court had refused to hear the case, the Ngatihaua would have remained at Ohineroa, which is where

William Thompson is buried, and is nearly in the centre of the block, and where the whole of the Ngatihaua Hauhaus were living. I think that some Pakehas have already offered to purchase, and have been advising the Ngatimaru to survey. The Ngatihaua Hauhaus left their kainga as soon as they heard the sentence of the Court, and have gone to Arowhena, because they knew the Pakeha would go to the Aroha. I do not know whether they will fight or not. Tana Te Waharoa is their chief. The Waikato tribes have about 800 fighting men, and the Ngatimaniapoto about 600. There are now 800 men of the Arawas capable of bearing arms. In my hapu (Ngatikereru) there are now only 100 fighting men where twenty-five years ago there were 170; this was in 1847, when my father was living. There are about 27 male children in the hapu.

Suspension of Court at Tauranga.

The majority of the Arawa were glad that the sitting of the Court was suspended a short time ago at Tauranga. They were much annoyed that the block Pukaingateru had been adjudged to the Tapuika; and they were in want of food, for the Government had previously been supplying them gratuitously, but had then stopped the issue. A dispute had arisen between the Ngatiwhakaue and the Ngatipikiao, and they were nearly coming to blows. They would have fought but for Mr. McLean. There were other grievances and disputes between those tribes. Pokiha and Henry Pukuatua had quarrelled about Ohineahuru. The Court had not adjudged it to either party, but required that it should be subdivided by themselves. Pakeha went to cut the lines, and the other tribe proceeded to do the same. If the whole of the tribe had been at Maketu there would have been war, and but for the Resident Magistrate, Mr. Hamlin, they would have fought.

Fees.

Does not think that both parties should pay the Court fees for hearing a case. Formerly, only £1 per diem for hearing was charged amongst all parties; now, each has to pay that amount. This was carried out for the first time at the Court recently held at Tauranga, and the Natives rather objected to it.

Reserves.

Referring again to the subject of reserves, would recommend that, when land is reserved for any hapu or tribe, the name of the tribe or hapu should be inserted in the certificate or grant; and after giving them time for consideration, one or more trustees should be elected to administer the property for a period of three years, when fresh trustees should be nominated, if the first have not given satisfaction. The trustees should have power to lease for twenty-one years, and no change of trustees should affect the validity of the lease. It has happened that, under the existing system, reserves have been leased and the grantees only have been benefited by the lease.

Rehearing.

The principle of allowing rehearing in particular cases is a good one; but if the Maoris were allowed time to settle their disputes before the cases are brought into Court, there would be no occasion for rehearing. Believes that the Natives will always be able themselves to settle disputed questions of land if sufficient time is allowed them.

Summary of Native Land Acts.

It would be well if a Summary of the Acts relating to Native land were prepared and translated into Maori, as the Natives carefully study all those that have hitherto been put into their hands. The Maoris highly prize the digest of criminal law that was prepared by Sir William Martin.

New Plan.

The following plan would be a means of hindering single individuals, who may have claims in blocks of land, from bringing on an investigation in the Court without the previous knowledge of the majority of those concerned, and would also encourage the others to agree to a settlement of disputed boundaries amongst themselves, lest their lands should not be investigated at all.

The North Island should be divided into five districts, comprising the various tribes, as follows:—

Centre District.
Ngatipaoa,
Marutuahu,
Ngatitai,
Waikato,
Ngatiraukawa.

Northern District.
Aupouri,
Rarawa,
Ngapuhi,
Uriohau,
Ngatiwhatua.

North-eastern District.
Whanau-a-Apanui,
Ngaitai,
Whakatohea,
Te Urewera,
Ngatiawa,
Ngatituwharetoa,
Te Arawa,
Ngaiterangi,
Raukawa.

South-eastern District.
Ngatikahungunu,
Hineura,
Rongowhakaata,
Ngatiporou.

Western District.
Ngatiawa,
Taranaki,
Ngarauru,
Ngatiruanui,
Ngatiapa,
Whanganui,
Rangitane,
Ngatitoa,
Ngatiraukawa.

The Chief Judge should reside in Auckland, and a European Judge at each of the following

places, taking charge of the surrounding districts: at Wairoa, Kaipara, at Whakatane, at Tauranga, and at Wellington. The European Judge should subdivide his district, and appoint a person called a "Kaiwhaka Komiti," for each subdivision. The accompanying plan will explain how this may be done.

Kaiwhaka Komiti.

The duties of the Kaiwhaka Komiti should be to call together such persons of his subdistrict as are desirous of bringing their claims to land before the Native Land Court; to call meetings of the Natives of the subdistricts to discuss their claims, to attend himself to hear these discussions, to ascertain the names of those whose claims in any particular block are admitted or rejected, and to report fully what takes place to the European Judge of the district. He would also ascertain and inform the Judge what were the opinions of the meeting with regard to the boundaries of such blocks; and no claims for investigation should be received by the Judge without the indorsement of the Kaiwhaka Komiti. They must be, in the first instance, sent to the latter, who would forward them on after they had been inquired into by the meeting.

The boundaries of the districts and subdivisions should be published in the Government *Gazette*, with the names of the Judges and the Kaiwhaka Komitis. The Judge should appoint a time and place for these Kaiwhaka Komitis to meet, to give an account of their work.

No Kaiwhaka Komiti is to interfere with another subdistrict, unless he is directed to do so by the Judge of the district. The Judge is to take notice of the conduct and work of the Kaiwhaka Komitis, noting those who are idle and those who are zealous and active.

Should any applications be sent to a Judge, he is to refer them to the Kaiwhaka Komiti of the subdivision for inquiry.

The salary of the Kaiwhaka Komiti should be from £100 to £200 a year.

There will be plenty of work for the Native Land Court for some years to come.

W. Hikairo.

Eru Nehua, Ngatihau hapu of Ngapuhi, from Whangarei, a half-caste, brought up entirely as a Native.

Approves of the Native Land Court, because it individualizes titles, and then no one can deprive the owner of his land. Every one gets his share. Formerly the chiefs got the payment, and gave no part of the money to the other people. All the chiefs did the same; but now it is very different; we all get our share, as the Court recognizes our claims. In old times, if a claim had been made against a chief, he would have thought nothing of cutting a man down with his tomahawk.

Fees.

Does not think it right that opponents in a claim should be compelled to pay fees, as well as the parties who bring it forward. Many persons are deterred from bringing forward undoubted claims from their inability to pay fees. They are frightened at the various payments they have to make. The payment fixed for a Crown grant should be sufficient.

Certificates and Crown Grants.

Disapproves of the limitation of ten names to a certificate or Crown grant. The names of all concerned should be inserted; and if these are considered too numerous, the land should be subdivided. This is the opinion of all the Natives about Whangarei, who would be willing to pay the expenses of subdivision whenever they could get the money. If the present system is to be continued, the grantees should not have the power even to lease the land. Was interested in a piece of land at Whangarei; ten of us purchased it for £30 from Te Puia, had it surveyed, and passed it through the Court. Only one man's name, Kakepuru, was inserted in the grant; by agreement, the remainder of our names were registered in the Court. Kakepuru has leased the land, and we get none of the rent, and he will tell us nothing about it.

Assessors.

Objects to the invariable selection of chiefs as assessors. They should be men of good judgment, selected for their intelligence. Let the Maori elect the assessors, and the Europeans give them the power.

Lawyers.

Does not approve of the employment of lawyers in the Native Land Court, because they occasion so much expense. The Maoris employ the lawyers because they are told that if they do so they will win their cases.

Interpreters.

Cannot do without licensed interpreters as so few Maoris understand English, and the Europeans cannot speak Maori. How could they communicate if there was no one to interpret?

Surveyors.

Disputes between Natives with regard to whether lands should be surveyed or not should be referred to the Resident Magistrate who should authorize the survey if he thinks proper, and the Court can then decide between the claimants. It would be a good way to settle disputes.

Reserves.

Sufficient land has not been hitherto reserved for the use of the Natives. Could not say what should be the least quantity of land reserved for each Maori man, woman, and child. Would not like to see a part of the purchase money of all lands sold compulsorily invested for the benefit of the seller, although some Natives have made away with all the land they possessed: Waimakutu, of Tekapotai, a hapu of Ngapuhi, has sold all his land, and travels about with his wife and three children, living on other people's land.

Rehearing.

Does not think that rehearings can be dispensed with, but it should be for the Judge to determine whether they should be granted or not.

Gazettes, &c.

Gazettes and Maori newspapers should be circulated more generally amongst the Natives. None ever come to my hapu, or to Ngunguru, or to several other places along the coast.

ERU NEHUA.

WIREMU POMARE.—His father a Ngapuhi chief, and his mother a Ngatiraukawa woman of rank. (He is now training for Holy Orders.)

THE Maoris who understand English customs approve of the Native Land Court and the Judges, but why are these assessors appointed to sit beside the Judges? Most of them sit there and say nothing, because they know nothing; they are like the pictures in a shop window, only put there to be looked at; they ought to appoint only those men who are intelligent and understand English customs. Some of the useless ones have indeed been dismissed, but others have been sitting for years, and are no good. Wiremu Hikairo is a good assessor, for he knows both English and Maori custom; and Hare Wirikake cross-examines the witnesses; but what does Rawiri Te Tahua know? Does he ever open his lips? Has he been told to be silent? Good assessors can be of great assistance to the Judges in different cases where Maori custom is in question, and it is easy enough to get good men, if they are sufficiently paid. I don't think £1 a day is enough; it ought to be 30s.

Juries.

I would like to see the jury system carried out. In the Aroha case I would have got jurors from a distance, who would have been disinterested in the question. The expense would be the difficulty, but in important cases the parties concerned would be willing to pay it; a majority should decide the verdict. It would not be easy to get Maoris who would be quite unprejudiced, but £1 per day would induce men to come from any distance. The Maoris don't at all approve of paying the fees of Court; these have only recently been insisted on; we were not aware that it was laid down in the Act, I was one of the first Natives who passed land through the Court at Mahurangi; a block of 1,220 acres was investigated by Mr. Rogan, but I did not pay any fees, and this seems to be a new custom. These changes are not clear to us. The Maoris would like all the laws connected with Natives and their lands translated and circulated, as newspapers are amongst the Europeans. In the same way, what the Maori Members say in the Assembly should be told to us. We know nothing of the laws, they are never sent to us; they are stowed away in the pigeon-holes of the Government, and we never see them.

Certificates and Crown Grants.

We do not approve of the limitation of ten names to a Crown grant. Every owner's name should be in the Crown grant, and if they are too numerous for convenience, the land should be subdivided before the Crown grants are issued. I quite expect to suffer loss, because my name was not inserted in the Crown grant for a block of 7,000 acres at Manawatu in which I have an interest. It is not all sold yet, but I feel sure that I shall not have my share of the money when it is. About 1,000 acres of it was sold to a European of the name of Nixon for £200, £100 of which ought to have been distributed amongst my wife, who was the principal claimant through her father (she is my cousin also), and my brother and sister, who had equal interests in the block with myself; but none of these names were in the grant, and we did not get one penny of the money. There is a block of 2,537 acres of land at Puhoi Mahurangi, near the Hot Springs, belonging to Te Hemara and thirty-one others; it was heard in Court in January, 1866, and Te Hemara got the Crown grant in his own name; he has sold some portions of the land and mortgaged other parts, but the other owners have never received any portion of the money and have no redress. The Court was asked in the first instance to insert all the names of the thirty-one that were interested, but it was subsequently arranged that Te Hemera's name only should be inserted. I was present on the occasion; it was one of the first pieces of land adjudicated on by the Court. Te Hemara also sold a piece of land of eight acres called Orakorako, near Mahurangi, for which a certificate was granted to him alone at the same Court, and under similar circumstances he has sold the land and never gave the others a share of the money. The Pakehas often advise the Natives to get as few names as possible to a grant for the convenience of selling. I know that the law was amended on this point in 1867, but I would not allow the ten grantees to lease the land until it had been subdivided.

Claims.

I object to any one person being able to demand an investigation for any block of land. Where many are concerned, no one man should make a claim without the consent of a majority of those interested.

Surveyors.

I have heard of several cases in which the surveyors have caused great trouble to the Natives. 1,220 acres of my land at Mahurangi was surveyed by Campbell; he was to receive £2 per day, and the bill came to £33. I could not pay the money at once, and Campbell threatened to sell the land, and instructed a lawyer to demand the money, who said that the land should be sold if I did not pay it. I did pay it, and got my Crown grant, but it cost me a great deal of money. We had an agreement with the surveyor specifying the terms, and telling him that he might have to wait for his money, but it was not witnessed, and it was our own fault; but these things often happen, and Maoris get frightened when they are threatened with the law, and do as they are required. A good many Maoris are taken in by the surveyors. Patuone, of the Bay of Islands, was imposed upon about two years ago. The surveyor said he would do the work and wait for the payment until the land was sold, and now he demands payment. He should have ascertained before he commenced when the land was to be offered

for sale. A piece of land in which I was interested at Puketapu (Waimate) was surveyed against my wish, and now we must have it done over again, because I don't approve of the first survey.

Lawyers.

I object to lawyers being permitted to practice in the Native Land Court, because it occasions a great waste of money. The Judges should be the only lawyers.

Interpreters.

I would also exclude the licensed interpreters. Let the Natives employ what agents they please. They will soon find out by experience what men can be trusted. The Government interpreters could act in Court.

Reserves.

At least 100 acres should be reserved for each Maori man, woman, and child; hitherto there has not been sufficient land reserved. I would oblige a portion of the purchase money of all lands sold by the Natives to be permanently invested for the benefit of the sellers and of their children—say £80 out of every £100, and some might be disposed to invest it all. You need not care whether the Maoris would like it or not; make it a law. The Maoris are poor because they waste all their money. Te Hemera has had £3,500 for one block of land, and has spent every penny of his share, which was about £1,000; he spent it in drink, in clothes, and in other purchases. The others did the same; it did not last more than two or three months; one man spent £300 in three weeks.

Alienation and Price.

The Natives are selling their lands at too rapid a rate; they have parted with large tracts, and are anxious to sell more. The Ngatiteata, of Waiuku, have sold all their lands that were not reserved, for a mere nothing, to squander the money in drink. The Natives get a better price for their lands now than they used to under the old system. There are no Natives in the neighbourhood of Auckland or of the Bay of Islands that have hoarded up any money. Hemi Tautari may be an exception.

Considers that rehearings are occasionally desirable, and could not conveniently be dispensed with; it often happens that full evidence cannot be obtained at the first hearing.

WIREMU POMARE.

WIREMU PATENE (WILLIAM BARTON), of Waikato.

THE Native Land Court is generally approved of by the Maoris; it is a good thing, but care must be taken to prevent difficulties from arising. The Natives get a better price for their lands now than they did in former times. I have never sold an acre of my land, and will not allow any of my people to do so. My land has all been through the Compensation Court.

Investigation.

I do not think that any Native should be allowed to make a claim to the Court without the knowledge of all those who are interested; he should acquaint the tribe, who will consider whether his claim is right or wrong. It often happens that men prefer claims to land in which they have no interest, and they deceive the Pakehas who are desirous of purchasing. No land should be sold without due notice to the whole tribe, and the *Gazettes* should be circulated more generally throughout the country. A short time ago a sitting of the Court took place at Port Waikato, and I received a *Gazette* by which I found that a piece of my land at Raglan, containing 900 acres, was to be brought before the Court. This was the first I had heard of it, and I started immediately in a canoe, and on arriving at Port Waikato found that the Court was sitting. I went to Mr. Monro, the Judge, and told him that this land belonged to me, and showed him the *Gazette*. The person who had applied for the investigation was Timoti Maumati, of the Tainui hapu of Ngatitahinga; he was present in Court. I told the Judge that the land had already been investigated and awarded to me by Mr. Mackay, at Ngaruawahia, and so it was struck out from the list. Had the land been adjudicated on by the Court and granted to the applicant, we should have had a quarrel about it. It was part of a block of 25,000 acres, which had been awarded to me and my people by the Compensation Court, and the names to be inserted in the Crown grant have been decided on.

Assessors.

Assessors should not sit in cases where they have friends, or any other interest. A Waikato should not sit on a Waikato Court. I have never heard the Maoris speak well of the assessors, and I do not like them myself, they are so partial and are deceivers. However, I would not like to see them done away with, but let us have just and intelligent men. It would not do for the Maoris to elect the assessors; let the Government appoint them. They need not necessarily be chiefs. I should not object to a man of lower rank than myself being appointed, if he were really able and intelligent.

Lawyers.

I object to lawyers being employed at the Court; look at the Aroha case—they got the Waikato money and gained nothing for them. The people are determined they will never employ a lawyer again. I would not like to say that lawyers should be excluded by law from practising in any case.

Aroha.

It would have been better if Aroha had been divided; if it is sold to the Europeans, Ngatihaua and Waikato will go and occupy the land, and will then demand payment.

Reserves.

At least 100 acres of land should be reserved for each Maori—man, woman, and child. None of

the Waikato tribes excepting ourselves (we have 1,000 acres for about 100 people) have land reserved for them. It would be a good plan to invest a portion of the proceeds of all sales for the benefit of the seller and his children.

WI. PATENE.

Napier, 31st May, 1871.

HENRY TOMOANA has passed between 50,000 and 60,000 acres of land through the Court, about 1,300 acres of which had restrictions of inalienability placed upon them. Has other lands which have not been brought before the Court. His name is in fifteen grants, and in thirteen of these there are ten grantees, in the two others only eight; and, there are, besides, some two hundred persons of the tribe interested in these lands, but their names have not been registered in the Court. The names of the hapus were however recorded. Was not aware till September, 1870, when Mr. Rogan came, that the Act of 1867 provided for the registration of all those who are interested in each block, rendering the land inalienable except by lease until subdivided. The Natives wish that all the Acts connected with their lands should be translated into Maori, and circulated amongst them, and have drawn up a memorial to the House of Representatives which contains this petition. Wished to have all their lands made inalienable when passed through the Court; but the Judges objected, and said that, when the last of their lands were brought forward, the necessary reserves could be made. It was Judge Monro who made this objection. Thinks that the Judges should invariably reserve lands when the Natives ask for it, and can fix no minimum quantity that should be reserved for each individual; let the Natives decide that themselves. Had wished that the Heretaunga Block, which contained 9,000 acres, should have been made inalienable, because Tareha was one of the grantees, and he was afraid that he would be wanting to sell the land. There were ten grantees—Karaitiana, Henry Tomoana, Arihi, Manaena, Waka Kawatini, Tareha, Paramena Oneone, Pera Pahoro, Noa Te Hianga, and Matiaha, who afterwards died, and Rata Te Honi was his successor. The names of the different hapus interested were recorded in the Court. The land has been sold for about £17,000. Many of the grantees were in debt to the storekeepers of Napier—he himself owed about £4,000; and great pressure was brought to bear upon them by these creditors to induce them to sell; they threatened them with imprisonment, and writs of execution on their lands. The grantees did not all agree together to sell the land, he himself objected for a long time, but great pressure was brought to bear upon him, before he consented; others were induced to sign, by being falsely informed that the rest had agreed to do so; Karaitiana was the last to put his name to the deed, and before doing so he went to Auckland to try and raise the money to pay off the debts, but did not succeed. One of the parties to whom they were indebted told Karaitiana and himself that the purchasers were instigating him to press his claim, and force them to sell; Waka Kawatini has not signed the transfer himself, but made over his interest to another, who disposed of it to the purchasers. Excepting Arihi, none of the grantees received a penny of the purchase money; it all went to pay debts and expenses, every penny of it. She, who is Hapuku's grand-daughter, got £2,500 in cash, from a merchant who purchased her share, and then disposed of it to the others. £1,000 was invested for her benefit in the names of two trustees, Wilson, and Purvis Russell, and she draws the interest; she spent the rest of the money in paying her debts, or distributed it amongst her people. Used to receive £1,250 a year as rents for this Heretaunga Block; goods have been sold to Natives when they were under the influence of drink, and have then been pressed upon them by the storekeepers. Thinks an Act should be passed to prevent storekeepers from recovering a greater sum than £5. The tradesman now comes down upon them like the monkey of a pile-driver, and crushes them by its force and weight. Now that they have few lands to sell, the shopkeepers will not give as much credit as they did. He himself still owes about £1,300, but has given mortgages on land to secure it. The Lands Frauds Prevention Act might have been of use some time ago, but is not of much value now, as the Natives are determined to sell no more land. It has gone through the Court, and restrictions of inalienability have been put on it by the Commissioner of Native Reserves, Major Heaphy. They wished him to reserve East and West Mangateretere and Waikahu, but he would not do so. Part of this was mortgaged to a merchant, who wished to purchase the whole of one block, but he (Henare Tomoana) refuses to consent as one of the grantees. All the lands which have been through the Court are now in confusion from mortgages and other liabilities which have been incurred by some of the grantees, and must remain so until the land has been subdivided; and as the law stands at present, this cannot be done. It is very hard that they are not allowed to subdivide their lands, because some of the grantees have dealt with a portion of it. The Natives never will be righted until this is rectified; they want to be able to subdivide at once, and get their individual titles clear. The interests of all grantees are not equal. They have informed the Europeans who have been dealing with them that this is the case; but the only reply is, that the law recognizes all grantees as having equal claims. The law of 1869 is too late to remedy our grievances; why did not the Government make a perfect law in the first instance? The grantees who mortgaged their interests were not aware that they were involving those of others.

Thinks that the assessors are too much overruled in Court by the Judges; their jurisdiction is supposed to be equal, but the Judges overrule them. Judge Monro did so in the Pakiaka case. The claimants handed in the names of the persons they wished to be entered as grantees; Karaitiana's name was down for both blocks, and the assessors approved of it, but Judge Monro decided that as his brother's name was in one grant, his (Karaitiana's) could not be entered also.

Napier—WAKA KAWATINI, Ngatihinemoa Hapu.

AT the sitting of the first Court, when Mr. Smith was Judge and two of the Ngatiwhatua chiefs were assessors, he did not bring forward any claims himself, but told the Judge that Tareha and Karaitiana would look after them. Several blocks in which he was interested were passed through the Court, but his name was not entered as grantee for any one of them; the consequence has been that, though all the lands have been sold, he has not received a penny of the money, nor derived any kind of

advantage either by the supply of clothes or stores. None of these lands had any restrictions of inalienability placed on them, and they are all gone. No other person but the grantees have received any benefit from the sale. The wrong has been on the part of the people whose names are in the grant. Some of these lands were leased to Europeans before they went through the Court, but he (Waka) had no part of the rents. Karaitiana and Tareha got the whole, and gave none to the rest of the tribe. Was told that when the lands were put through the Court this injustice would be remedied—that he would then have a title for his own particular portion, which would be made over to himself. At the next Court, when Monro was Judge, finding that he had been defrauded in the former case, he got his name entered as grantee in the Heretaunga Block; but he has not been any the better off for that, as the Europeans have stolen the money he should have received for it. The year after the Crown grant was issued he received £100 as his share of the rent, and distributed it amongst his hapu. The second year's rent went to Parker, who got it from Karaitiana. He supposed that the lawyer told Karaitiana that he owed Parker money, but he did not owe him a penny. Parker had asked him to make his lands over to him that he might look after them, but he would not agree to this. He never signed the receipt for the rent that was due. He asked Mr. Wilson, who told him that it was all gone, as well as the money that he should have received from the sale of the block; but he never received money from any one on this account. Mr. Tanner told him that if he and his hapu would come into town they should have their share of the money for their land. He asked, "How much?" Mr. Tanner said £1,000. He replied that if it was £6,000 it would be all right, for his portion of the block was 10,000 acres. He and his people, however, came in, and asked that the money should be put down on the table Tanner would not pay him, but went about to the storekeepers asking if Waka was in debt to them. This he was told by another European, whose name he does not know. Got no money from Tanner after all, who only told him that he had paid it all away in liquidation of his debts, and then he knew that what the European had said must be correct. He owed about £200 to various storekeepers; £56 to Robinson, the draper, was the largest amount. Asked Tanner to pay him £1,000 that he might pay his debts himself, but he refused. He thought his money was all right, but soon found that it was all gone. He wished Mr. Cuffe to have charge of it, but signed no document authorizing this. If his name had been put to any deed or document it is a forgery, for he never put his hand to a pen.

Note.—Mr. Hamlin, who interpreted Waka's statement, says that he (Waka) put his mark to the deed of conveyance in his presence apparently of his own free will, and said he quite understood what he was doing.

To HAULTAIN— Kohupatiki, 14th June, 1871.

Friend, salutations to you. I write to inform you of the distress under which I and my hapu, Ngatitamawahine, are suffering. We granted a lease of our land, Omarunui, to Niira; after a year and a half it was surveyed; but only the name of Omarunui was mentioned in the lease, and the boundaries were described—the inland boundary being a fence of ours, and the outer boundary being a fence of Tareha's. When it was to be surveyed Karini said to me, "Paul, whom do you wish should survey Omarunui?" I asked, "Should it be surveyed?" Then he replied, "Yes; Omarunui should be surveyed as far as Kopuaroa." I said, "No; let the survey be confined to Omarunui only; let not my side be surveyed." He said, "Let it be surveyed, so that your portion and that of your Europeans may be clearly defined." I replied, "No; lest I get into trouble." Karini said, "You will not get into trouble. Your portion is all clear; when troubles do come, then the cause of it will be explained," I consented then to the survey; and now, my friend, those who were in charge of the land were not able to resist, and the European has got the land. There were four of us grantees, and the land was parted with for rum and goods. We did not know that the money had been consumed when Niira told us that we had got £800 worth of goods. We imagined that it was only Omarunui that had been parted with; but when we found ourselves being ejected, and our houses removed, we came to the conclusion that we were done for. Friend, that is that trouble of ours.

PAORA TOROTORO.

To HAULTAIN,— Kohupatiki, 14th June, 1871.

Friend, salutations to you. This is another trouble which is oppressing me. Tatana has got my grant of Mangateretere. The price was £500, and I received timber for my house which was burnt to the amount of £200, leaving a balance in Tatana's hands of £300. Now he asked me twice to go to his house about this money, and I went twice to get it. I asked him for the £300, and he and Wokena consented. I said, "Give me two cheques, one for £100, and one for £200." Then Tatana wrote out a cheque for £10, and one for £20, thinking that I would be deceived. When I saw them I threw them down; and then they laughed at me and said, "Take these and come again for the rest." I took with me the cheque for £10. Afterwards I got about fifty gallons of rum, one cloak, four pounds of powder, four boxes caps, one bag of shot. That represents all the money I received for my grant of Mangateretere.

PAORA TOROTORO.

To HAULTAIN,— Kohupatiki, 14th June, 1871.

Friend, salutations to you. I write again to let you know the lands on which I have not received money from the grantees, that is to say, lands in which I am interested:—

	£
1. Te Taheke	1,000
2. Te Karaka	800
3. Papakura,—Tareha	9,500
4. Papakura,—Karaitiana	4,000
5. Wahaparata	500
6. Pokonao	600
7. Heretaunga	13,000

I write to ask you to return to me some portions of these lands for our occupation. The grantees have caused us to suffer greatly. No money has been paid to the owners of the land; it was all consumed in paying their (the grantees) debts. There are none of us who were without land—we all had land; but as for the money, we have had none of it. I therefore ask you to give us back some places for our occupation. Sufficient.

PAORA TOROTORO.

To HAULTAIN,— Kohupatiki, 14th June, 1871.

My friend, salutations to you. This is another grievance of mine, and still about land; the block contains 3,800 acres, and was sold to Tatana for £1,000. He stated that I owed him money; he has therefore seized upon the land in payment thereof. He said to me, "Give me Moteo in payment for your debts, and I will give you the balance, £1,500, in hard cash (the total being £2,500)." Now, the money which I have received, and which I have actually seen is £650, the balance I know nothing about. I want the land to be given up to me so that the proper quantity for the sum (I have received) may be decided. The boundary of the piece I sold commenced at Haumakawe; from thence by Braithwaite's place to Tutaekuri, that was for the whole sum. Sufficient.

PAORA TOROTORO.

Napier.

HARAWIRA TATERE, of the Ngatikurukuru hapu, living at Waimarama, near Porangahau.—Is an Assessor of the Native Land Court and has officiated on several occasions at Wairoa, Waipawa, and Napier; has been aware that in more than one case Native claimants have brought forward false claims, which, however, have been admitted by the Court, and judgments given in their favour. In the case of the Tamaki Block (or Seventy-Mile Bush), Aperahama Te Rautaki got his name inserted though he had no claim whatever. His wife had an interest, but it was not on her account that the Court admitted his claim. Lives near the Okairakau and Apiti Runs, which are leased by his people to Mr. Brown; they contain 12,000 or 14,000 acres, and were put through the Court within the last twelve months. Morena, chief of Pourerere, who has sold all his land to the Government, applied for the hearing of Okairakau, and claimed an interest in the land, though in fact he had none at all, and got his name inserted as a grantee. He also succeeded in getting the name of a woman of his tribe, Heni Whawhanga, entered as interested in the Apiti Block, though she had no claim whatever. Applied for a rehearing to the Judge, and also to the Chief Judge, Mr. Fenton, but was informed that it would not be granted. The land has been reserved—but in consequence of Morena's conduct no lease has since been given to Mr. Brown, to confirm the original agreement made some years ago.

As the law now exists, a few persons get complete control of those lands intended for sale; the grantees sell the land, and appropriate the proceeds to themselves, for in order to facilitate the sale the names of other persons who are interested are not registered in the Court. The Natives were better off under the old system of purchase by the Government for then every man got his share of the purchase money. No man had more claim than another; all could occupy and cultivate what lands they required, and every one had a voice in the sale.

Has sold none of his lands. Has put five blocks through the Court containing many thousand acres (probably over 30,000), and all this has been made inalienable.

The grantees receive about £700 a year in the way of rents, which money they divide amongst themselves; the rest of the tribe who are interested get none of the money, but are supplied with clothes, stores, &c., which are paid for by the chiefs.

They are however very dissatisfied that the grantees hold the property of all, and had not the lands gone through the Court, they would not now be brought before it. They see the evils which have come upon others such as Hapuku, who has got rid of most of his lands. And many have been tying up their lands to make them inalienable, and to prevent sales or mortgage, and this is the only thing that has saved them.

[Telegram.) Wanganui, 9th June, 1871.

COLONEL HAULTAIN, WELLINGTON,—

Mr. Buller has told me of your telegram. This is my word. There is much trouble and confusion about the Land Court. Some of its proceedings are not clear to us. We have had a great meeting at Parenga.on this very subject. All the tribes of this river and of Rangitikei, also representatives from Taupo and Ngatiraukawa, were present. The matter was discussed for five days. The decision come to was, that twenty of the leading chiefs should go to Wellington to confer with the Government on this matter. It was arranged that these chiefs should go down at the time of the meeting of the Assembly. The chiefs appointed for this mission are myself, Kawana Hunia, Aperahama, Tahunuiarangi, Te Peeti of Rangitane, Pehira Turei, and other chiefs. When we hear that the Assembly is convened, we shall at once go down. There is much to talk about, and we are rejoiced to hear that you are to help us in this matter. We do not condemn old Court, but we are anxious to have some alterations. Under the present system, men lose their lands; others get land that does not belong to them, because they are strong to talk. There is much confusion also about the Crown grants. When I see you, I will fully explain all these matters.

KEEPA, Major.

Letter from KARAITIANA.

[From Appendix to Journals of House of Representatives, 1869—A. No. 22.]

(Translation.) Wellington, 29th July, 1871.

TO THE GENERAL ASSEMBLY OF NEW ZEALAND,—

O friends! here am I sending the thoughts which I have discovered. This is not from any cause of complaint or strife, or for the purpose of creating evil, but for the purpose of pointing out the reason why trouble exists with regard to our side—the side of the Native race.

Let me here speak of one thing—a disapproval by me of this institution, the Native Land Court. Its fault is this: listening to the false statements of men who have no just claim to the land. Friends, this is a very bad practice. Our Maori custom is much preferable to this.

This is another thing, the regulation of Crown grants. The fault in that is this: do you listen! Where there are one hundred or more men (as claimants), the Court only admits of ten being inserted in the Crown grant, while the one hundred are thrown carelessly out of their land. This is the fault of that regulation.

Another fault of the Crown grant is, the European invites the man to whom the Crown grant belongs to drink spirits, and that Maori then says, "I have no money." Then the European says, "Your money is your Crown grant—your land is your money." I look upon this as being a cruelty to the Maoris (so that they may cease to have any land).

I had a word to say to the Judges who were at the second sitting of the Court at Napier. I said to them, "O my friends, if the man who has the Crown grant sells the land, will it go when it has been sold by him?" The Judges replied to me, "It will not go, unless the whole of the men whose names are in the Crown grant consent; then it will go." Then I knew that the Land Court was a good thing, and I thought, verily this is the permanent measure.

Shortly afterwards another measure was adopted: the land went by the sale of one man. Do you continue to listen? I will never suffer my land to go upon the sale by one man whose name is inserted in my Crown grant, because this is a lame system. Does it proceed from the lawyers, or from the Judges of the Court?

Friends, I was not formerly a man who wished to sell his land to the European. I proceeded to the Court that it might be permanently settled that the land should not be sold, but it appears that it can be sold.

Friends, this is a regulation which destroys men. I am not able to write out the numerous matters which are troubling us. All that I will intimate to you is this: Let the (one) man who is in the Crown grant be prevented from selling, so that it be seen whether the Natives are to be as friends to you or what, or whether they are to be cast carelessly aside through these measures of the European.

Friends, I am now requesting you to immediately take some action with regard to this thing which destroys men, that it may be put an end to, and that man may be saved. Enough.

From your loving friend,

KARAITIANA TAKAMOANA.

To MR. FENTON,— Waipaoa, 14th September, 1870.

Friend, salutations to you. This is my word to you in respect to the investigations of Tamaki, that is, of one end of that land belonging to us, to the Ngatimaru, which commences at the Mangatere River on one side, and at the Whakaruatapu the other side. This is in one block; ten men are named in the Crown grant, and Karaitiana is the first-named of them; when the names had been proclaimed by the Court, Karaitiana got up and said to the Court, "This land is to be inalienable" When that block had been disposed of, then the Whakaruatapu and on to Mangatawai was called (the Native name is Ohu). When the case had been heard, then the names of the men were selected to be inserted in the Crown grant. Ten were selected—Nepe was the first of them. When these had been proclaimed, I got up and was going to speak to the Court, and say that this land was to be inalienable. Mr. Locke said to me in Court, "Do not, but rather let us two go outside of the house and talk;" then we two went outside, when he said, "Do not make it inalienable, as this is a hearing of no moment; but when the land is surveyed, then make it inalienable." So I consented that the block should be left open; so it ended about that block.

Then the block Mangatawai and on to Manawatu was heard (the native name of which is Ngamako.) When this case had been investigated, then ten men were selected, of which Rapata was first; when the Court had proclaimed their names Rapata did not say this land was to be inalienable, nor did he say it was to sell; there was not any word about that block, but this was land to be inalienable. Rapata says these pieces are for him to sell, but we have a claim in that block, we will make our pieces inalienable. That piece in the centre of the land to be sold by Rapata we will give (to him) but the pieces on the sides of the land to be sold by Rapata we will make inalienable. Our piece in the centre of the land to be sold—over this we will hold control.

So ends, from all of us,

NEPIA TE APATU.

Note.—No restriction of inalienability has been made in this case—15,000 acres, Manawatu, No. 5.

EXTRACTS from Reports of Land Purchase Department, C. No. 1, 1862, showing difficulties of dealing with the Natives, obstruction by Europeans, improvidence of the Natives, and their desire for change of system.

Note.—These papers have not been copied, as they are already published. *See* Appendix to Journals House of Representatives, 1862, C. No. 1.

OPINION of CHIEF JUDGE on 17th Clause of Act, 1867, and Letters.

Tuesday, 7th April, 1868.

Place—Provincial Council Chambers.

Present—F. D. FENTON, Esquire, Chief Judge.

IN the matter of Mr. McCormack's application, the Chief Judge pronounced the following opinion:—

I have considered with much attention the arguments of Mr. McCormack as to the interpretation and the effect of the Amendment Act of 1867; and though the matter came before the Court in a somewhat irregular fashion, not being in any particular cause, yet I feel that I ought briefly to indicate the

tendency of my mind as to the decisions which may hereafter have to be given on the points raised; at the same time, I must guard myself from being bound in any way by what I now express, for my convictions are arrived at simply on Mr. McCormack's *ex parte* arguments and my own reflections thereon; and the Court will feel itself at liberty in the future to follow a course different from that which I now indicate, if in any cause sufficient ground shall be shown. It certainly does appear that the effect of this clause would be to make perpetual the communal holdings of the Natives, by getting them in their existing state registered in a Court of Record and made sustainable in the Supreme Court; but it is difficult to suppose that this would have the effect intended, as it would be distinctly opposed to the declared intentions of the Legislature, and, in particular, to the essential object of these Acts.

As to the commercial or political effects of the clause in question, I do not think that the Court has any concern. If the mind of the Legislature is clearly indicated, it seems to me that it is the duty of this Court, as of all other Courts, to give effect to it. At the same time, if a discretion is left to us, we are bound so to interpret the law as in our judgment will most advance the interest of the suitors, and, in a secondary point of view, general public policy.

It has been the practice of the Court hitherto, in cases where more than ten persons have appeared in the evidence to be interested in a piece of land, to order a subdivision or more subdivisions than one, if one division did not sufficiently reduce the number of owners to the ten limited by the Acts; and I believe this practice has been beneficial, and in furtherance of the great object of these laws, as declared in the preambles of the Acts of 1862 and 1865,—namely, the extinction of the Native communal ownerships, and the substitution of titles known to the laws in lieu thereof.

The clause under contemplation is without a preamble, and the Court is ignorant of the mischief at which its provisions are aimed; but being apparently in direct antagonism to the great principles of the Acts of 1862 and 1865, it must be presumed that some mischiefs have resulted from the operation of those Acts which Parliament intended to remove. But it does not appear to the Court that, whatever this mischief was, it can by any possibility be obviated by establishing a regular system of concealed equities (for these equities will be virtually concealed, being recorded only in the books of the Court, whilst the Crown grant may be dealt with in a distant part of the Colony), even if all the equitable interests could always be ascertained, which is a question open to grave doubts. But it does not appear clear that, by the enactment of this provision, Parliament intended to take from the Court the discretion which it previously had, as to the issue or the refusing to issue a grant, after it shall have heard the evidence and the arguments on the case. On the contrary, I think the discretion is still left with us; and, believing that the great object of this system of legislation is the abolition of communal ownerships of land, and the substitution of titles known to the law in lieu thereof, the inclination of my mind will be so to exercise the discretion with which the Court is still, in my view, intrusted, as to refuse to issue a certificate of title, which will not on the face of it disclose the names of all the persons who are shown to the Court by evidence to be the owners, according to Native custom, of the lands described therein; or, in other words, to order subdivisions until the names in the grant are brought within the legal number, and display the whole of the persons interested in the property. If this view is wrong, this Court may readily be compelled by *mandamus* to give the clause in question any other effect which the Supreme Court may think would more fitly interpret the intentions of the Legislature.

The Court then adjourned *sine die*.

EXTRACTS from Letter of Mr. D. F. FENTON to the Hon. J. C. RICHMOND.

(From Appendix to Journals of House of Representatives, 1867—A. No. 10.)

SIR,— Native Land Court Office, Auckland, 11th July, 1867.

"It is the large blocks of land that the Native refuses to survey until his title is established. This very sensible view was first taken by William Thompson, at the Court held at Hamilton. He said that he had declined to survey land until the Court had recognized his title, for it might be that after he had completed his survey the Court might decide in favour of another title, and how would he then recover his expenses? But let the Court, he said, first decide on his title, and then he could survey with confidence. In all cases of interlocutory orders without surveys, a time is limited in the order."

"Most of the blocks hitherto certified have been brought into Court for the purpose of enabling sales or leases to be made to Europeans, in order to rise money for the purpose of completely individualizing other blocks, or some of the blocks already passed. It must be remembered that the most formidable obstacle to the rapid progress of conversion of titles is the extreme poverty of the Natives; and the great commercial depression which has existed for the last twelve months, and which is now more aggravated than ever, has rendered sales of land almost impossible."

"Two years ago no one could have foreseen the price to which land has fallen in the Province of Auckland. Thus, Walter Kukutai's tribe have in vain been offering 40,000 acres in one block, of the finest land in the Waikato, at 5s. per acre cash, or 6s. 6d. deferred payments extending over five years. A block in the North, called Waitaroto, cost 9d. an acre for survey, 1d. per acre on other expenses, and was offered for sale at 1s. per acre."

"The intemperance and waste so noticeable amongst the Maori landlords of Hawke's Bay are matters much to be regretted; but in my judgment it is not part of our duty to stop eminently good processes, because certain bad and unpreventable results may collaterally flow from them; nor can it be averred that it is the duty of the Legislature to make people careful of their property by Act of Parliament, so long as their profligacy injures no one but themselves. It is well that all the money squandered by the Maori landlords is spent in the place whence it is drawn. Education will cure the evil, for drunkenness is the vice of the uncultivated and brutish man."

"The great difficulty in the rapid conversion of the Maori titles and the individualization of holdings, is the necessity and expense of surveys. Some idea may be formed of the powerful character of this obstacle from the fact that the plans already in the Native Land Court Office have cost, according to Mr. Heale, £40,000. This large sum has all been paid by the suitors nominally, though, I presume

that the greater part has been advanced by the intending purchasers. Nor can this expense be avoided, for it is obviously impossible to make a grant of lands unless there is a map of the land to be granted—except, indeed, in the few cases of islands or remarkable peninsulas."

EXTRACTS from Letter of Mr. MANNING to Mr. FENTON.

(Taken from Appendix to Journals of House of Representatives, 1867.—A. No. 10.)

Office of Native Lands Court, Hokianga, 24th June, 1867.

"EVERY Court, however, which is held, and every block of land which is adjudicated upon, will render the recurrence of these land disputes more and more unlikely, merely by defining precisely and finally the boundaries of the lands of tribes and individuals, and thereby removing the causes for contention."

"The average value of the alienable land is, say about 5s. per acre; the average value of the inalienable land is, as compared to the value of the alienable, about five to one, or 25s per acre; in fact, £2 per acre has been, not long ago, refused for 10,000 acres of land, which is not nearly so good or valuable in any respect as the Whakatere Block of 11,000 acres, and for which a certificate of title has been issued to the tribe, and not to individuals."

"The land for which, as I have mentioned, £2 per acre was on a late occasion refused, is unimproved land near Kaikohe, which has not yet been claimed in the Native Land Court, but that it and every acre in the district will be claimed ultimately is certain."

"It is a circumstance worthy of note, that during the last twenty or twenty-five years scarcely any first-rate land has been sold in this district, very little of that purchased, either by the Government or settlers, being nearly so valuable as the lands retained by the Natives for themselves."

"Certainly not to the extent of twenty acres of first-rate land has been sold; the consequence is, that there is not in the large and fertile district of Hokianga one settler engaged in farming, or who has land capable of being cultivated properly, and the European inhabitants are therefore, all who have any capital at all, engaged in commercial pursuits, and the others—labourers chiefly—in the timber trade."

"The fact of the Natives in this district having for so many years kept back all the choice and richest of their lands under many temptations to part with it; the fact of their having lately refused £2 an acre for land, good, but not the best, and the alacrity with which they have availed themselves of the Native Lands Act, would show that, in retaining their lands, they have been all along acting from a set and intelligent purpose, and with a not unenlightened view to their own future interests; and in this is the best hope for the eventual success of the Native Lands Act, already successful in a small degree, and which, in my opinion, holds out to the Maori people their last chance of temporal salvation."

EXTRACT from Report by Mr. ROGAN as to the Working of "The Native Lands Act, 1865," in the District of Kaipara.

(Taken from Appendix to Journals of House of Representatives.—A.—No. 10A.)

"The Act of 1866 has only come to the knowledge of the Natives by hearsay; at least I have not seen a translation. The Native assessors are called upon to assist in adjudicating under an Act written in a foreign language, which is and must be prejudicial to the satisfactory business of the Court until this is rectified."

Rev. T. S. GRACE to the Hon. Colonel HAULTAIN.

MY DEAR SIR,— Tauranga, 9th May, 1871.

When you first spoke to me on the subject of Native reserves, the great importance of the matter, both to Europeans and Natives, did not strike me, until, in a further conversation, you showed me that the Government are desirous that the Natives should be settled and prosperous.

It is quite clear, I think, that if Natives are allowed to sell their lands to an unlimited extent, or on the strength of them to obtain credit from merchants to any amount, that their lands must soon all pass out of their hands, and that those Natives who may survive a period of dissipation will become a disaffected lot of paupers. As one who feels interested in the spiritual and temporal welfare of the Natives, I am thankful for the peaceable and wise measures of the Government, and am not only hopeful, but somewhat confident, that, with the blessing of God, if they receive that reasonable protection which we accord to children and persons incompetent to manage their own affairs, that our efforts will be crowned with success, and that this race at least will be an exception, and not perish from the earth by contact with the white man.

For reasons into which I need not enter, it appears necessary for the interests of both races that unlimited speculation in Native lands should be checked. If allowed to go on, we must expect to see millions of acres locked up in the hands of speculators, real settlement only beginning when speculation has ended—that is, when there is no more Native land to purchase; and when the Natives are divested of all their land, it is to be feared they must disappear.

Whether Native reserves should be made in a number of comparatively small detached blocks, or in a few large ones, is a matter of great importance. It appears to me essential to the welfare of the Natives that they should be comparatively separated from us, and that close contact should only be encouraged as their advance in civilization will enable them to bear it.

If it has been thought necessary to keep the Pitcairn Islanders separate, how much more these Natives. It is presumed, then, that if they were living in a large number of small scattered reserves they would soon be so mixed up with a low class of Europeans that their habits of drunkenness, immorality, and improvidence would become so universal as to insure their ruin.

Living detached from one another, it is true the Natives would to a great extent be incapable of much mischief to the peace of the country; but they would also be incapable of combinations for good

amongst themselves. Experience has taught us that, whenever they make an effort or adopt a new course, whether for good or for evil, that they do it in the mass. Take their present willingness to make roads as an instance. Individual effort or individual civilization, except under very exceptional circumstances, has always failed; our wisdom will now be to try, by slow degrees, to elevate the whole community, the younger portion taking the lead, and the older ones following at their leisure. I conclude, then, that as separation appears necessary on the one side, and combination on the other, that a number of small detached reserves would not prove a benefit to the Natives.

With reference to our former efforts to civilize this race, I would say that both missionary bodies and Government have made grave mistakes. More has been expected from the Maoris in a generation than our own ancestors attained in ten. If we puzzle a child with rule of three, who has not learned addition, shall we advance his education?

The only kind of reserves that I think would be of real value to the Natives, and would also to a great extent stop wholesale speculation in land, would be to render inalienable (say for fifty years) several large blocks of land or districts where the Natives would to a great extent be removed from close contact with Europeans, and, while able, especially the old people, to live quietly after their own fashion, would at the same time afford opportunities for the improvement and civilization of the younger portion, who now for the most part aspire to something different and more European than their elders. I write on the assumption that when we see the end of the present war we shall have no more serious fighting with the Maoris, and feel convinced on this point, from the general tone of feeling that prevails amongst them. Notwithstanding their bravado when talking with Europeans, it is very clear they have had enough of it. Besides which, if we judge from the past, we shall come to the same conclusion. Hone Heki in the North fought with us once, and though victorious, as he thought, yet never troubled us again; the same may be said of Te Rangihaeata in the South. Wiremu Kingi of Taranaki, who was the first to take up arms in the present war, was glad to slip out of it; the Waikatos rushed to the rescue, and were driven back, and, though they have growled and threatened, have never ventured to attack us again, and I think, except under some very extraordinary circumstances, never will.

For these reasons, and with an open country, we could have no fear in seeing the Natives located in large parties in four or five reserved districts, and indeed, to some extent, we should, I think, regain their confidence by attempting such a step; and by an inexpensive recognition on the part of the Government, of three or four of the leading men in each district, and the promotion of order, religion, and education amongst them, there is every reason to expect a good result.

In making the above remarks, I would add, that you must take them for what you think they are worth. I can anticipate many objections; but if I can throw any light upon the future of the *tangata Maori*, I shall be glad.

I have, &c.,
T. S. Grace.

Colonel Haultain, Auckland.

Case of Ngakapa Whanaunga and Papers with reference to Survey.

Mr. J. Mackay, junr., to the Hon. Dr. Pollen.

Sir,— New Zealand Native Land Agency, Auckland, 30th January, 1871.

I have the honor to enclose herewith for your information, an extract from the Provincial Government *Gazette*, of the 23rd instant, in the case of Jordan *v.* Ngakapa Whanaunga, and beg to lay before you the facts connected with that case, with a view to requesting the Government to grant to the defendant some relief in the matter.

Some two years ago Ngakapa Whanaunga, as the representative of the tribe Ngatiwhanaunga, engaged Mr. Richard Coles Jordan to make surveys of certain lands at Warekawa and elsewhere. The agent negotiating this business was Mr. C. O. B. Davis. At the same time an arrangement was entered into with a Mr. Young to lease the Wharekawa Block, and pay the expense of the survey of the same.

Mr. Jordan in the meanwhile completed the survey of the Warekawa and some lands near Shortland, for which he made some rather heavy charges. Mr. C. O. B. Davis and Mr. D. J. O'Keefe objected to the amount claimed, and tendered £400 in payment, which was not accepted by Mr. Jordan.

Mr. Young in the meanwhile, finding his speculation not a lucrative one, withdrew from the transaction, and Ngakapa Whanaunga could not enforce his claim, it coming under the section of the Native Lands Act referring to agreements previous to issue of certificates of title. Mr. Jordan then, through the instrumentality of Mr. Rice, native interpreter, procured a promissory note for £400 from Ngakapa Whanaunga, which he supposed was payment in full of all demands, provided the amount was paid on the promissory note coming to maturity. The promissory note was not met when due, and Mr. Jordan commenced an action in the Supreme Court for between £500 and £600.

Messrs. Davis and O'Keefe persuaded Ngakapa Whanaunga to defend the case, instead of applying to the Chief Judge of the Native Land Court to determine the question, as provided by the Native Lands Act. At the time the action came on in the Supreme Court, the persons before named and their solicitor withdrew from the case. Ngakapa Whanaunga came to me in this extremity, and I offered Mr. Jordan the sum of £400, in satisfaction of all claims against Ngakapa Whanaunga and the Ngatiwhanaunga tribe for the surveys executed by him, and the further sum of £20 for costs on that behalf. This offer was refused, and the case came on in the Supreme Court, and I succeeded in getting it referred to arbitration. The result of the arbitration was, that about £70 was deducted from the plaintiff's claim. I then persuaded Mr. Jordan to stay further proceedings, and paid the sum of £400 on account of the award, which with costs amounted to upwards of £700. Mr. Jordan agreed to take the remainder of the money from me as the rents were paid into my hands, on account of lands in the town of Shortland owned by the tribe Ngatiwhanaunga. As this could not be done immediately he

has proceeded to execution, and the sum of £391 is now claimed by the Sheriff, together with costs, poundage, &c., which will probably amount to £450.

I now beg most respectfully to request that the Government will take this case into consideration, and advance to Ngakapa Whanaunga the amount required—say £450—in order to prevent the sale of his property and his consequent ruin. The money must be paid before the 3rd of February next, or the property will be sold by auction. The amount to be advanced can be secured to the Government by mortgage at six or twelve months over lands owned by Ngakapa Whanaunga, Te Karawaru, Wiremu Te Aramoana, Waka Toheriri, Hera Puna, Hemi Te Ahipu, and Epanaia Motukohai, at Shortland; or, if this security is deemed insufficient, over other lands in that neighborhood in addition to the above. The Government might reduce the amount by remitting the poundage fees, which will amount to £19 11s. If the Government will advance the amount required, I am prepared to guarantee the repayment of the same, and in the meanwhile to give valid security for a large amount, so as to secure them from any loss in the matter

I have, &c.,
JAMES MACKAY, junr.,
Agent for Ngakapa Whanaunga.

The Hon. Dr. Pollen.

Note.—This letter was not received by Dr. Pollen till the 7th February. The land was put up to auction and knocked down to Myer for £35.

In the Supreme Court of New Zealand, Northern District.

Between RICHARD COLES JORDAN, Plaintiff, and NGAKAPA WHANAUNGA, of Cabbage Bay, Defendant. WHEREAS by virtue of a writ of *fieri facias* issued on this action, and directed to me, ordering me that of the real and personal estate of the above-named Ngakapa Whanaunga I should cause to be made the sum of £391, together with the interest on the said sum, at the rate of £8 per centum per annum, from the 4th day of October, 1870, together with £1 13s. 4d. for the said writ, besides Sheriff's poundage, officers' fees, &c.: Now, I do now hereby give notice, that I shall cause to be sold by public auction, by Stannus Jones, at his Mart, in Queen Street, in the City of Auckland, on the 3rd day of February, 1871, at 12 o'clock noon, unless the said debt of £391 and interest be sooner paid, together with the said sum of £1 13s. 4d., besides Sheriff's poundage, officers' fees, &c.; all the estate, right, title, and interest of the said Ngakapa Whanaunga, in and to all that parcel of land in the Province of Auckland, situate at Shortland, in the district of Hauraki, Queen's County, being called or known by the name of Rangiriri L, and numbered 1,266; bounded towards the North-east by the Kaueranga Block, 250 links; towards the South-east by the Whakaruaki Block, 1,063 links; towards the South-west by the Hauraki Gulf; and towards the North-west by the Rangiriri H No. 1 Block, 313 links and 150 links; by the Rangiriri J Block, 150 links; again by the Rangiriri H No. 1 Block, and by the Rangiriri J No. 83 3-10 links, 210 links, 83 3-10 links, 100 links, 83 3-10 links, 100 links, 83 3-10 links and 400 links. Except so much and such parts of the said land as is declared in the Crown grant thereof to be dedicated to public uses as roads or highways, and except so much and such part of the said land as is conveyed by the said Ngakapa Whanaunga to one Daniel Joseph O'Keefe, by deed bearing date the 21st day of February, 1870, and registered in the Deeds Register Office, at Auckland, as number 1,128D, with all buildings thereon erected. And I further give notice, that the interest of the said Ngakapa Whanaunga consists of an estate in fee-simple, and that the same has been taken by me in execution at the suit of the said Richard Coles Jordan, the execution-creditor.

H. C. BALNEAVIS,
Sheriff.

Dated, October 31st, 1870.

George Ritchie, of Wyndham Chambers, Wyndham Street, Auckland, Solicitor for the said Richard Coles Jordan, the execution-creditor.

MY DEAR SIR,— Thames, 9th June, 1871.

I regret that I have not been able to reply to your note earlier. I have only this morning been able to obtain the information required by you. The annual rental of Ngakapa's town allotments at the time of the seizure was £87 3s. Trusting this information may reach you in time for the purpose required,

I have, &c.,
E. W. PUCKEY.

Mr. R. C. JORDAN to the Hon. Colonel HAULTAIN.

DEAR SIR,— Tauranga, 24th April, 1871.

I forward particulars of the case you mention (Jordan *v.* Ngakapa), together with a few remarks of my own respecting the working of the Native Land Act as far as regards the relative interests of the Native land surveyors and the Native.

* * * * * * * * *

I think it was near the close of 1867, while in Auckland, I was engaged by Ngakapa to survey for him a block of land estimated to contain 10,000 acres, provided he could make terms with a Mr. Young, who wished to lease it. Messrs. Davis, Young, and myself, and some Natives, then proceeded to the spot; negotiations were concluded with Mr. Young, and I was instructed to make the survey. I was to be paid for the survey out of the rent, or Mr. Young was to pay me, Ngakapa giving him a mortgage on the land for the amount when the land passed the Native Land Court.

When the case was heard before Judge Munro the land became inalienable for more than twenty-one years, as it became subject to clause 17 of Native Land Act, 1867, which gave great dissatisfaction to the owners, who then found out that, though they had put themselves to a great deal of trouble and expense to obtain a title, such title as was granted to them was of no service.

They (the owners) then made application to the Native Land Court to have the restriction removed, without effect. Meanwhile I had been engaged making other surveys for Ngakapa, and not having received from him any payment, I, thinking it would be negotiable, employed Mr. Rice to see Ngakapa, and get from him a promissory note for £400 on account of surveys, which promissory note Mr Rice duly obtained. I made repeated applications for payment, and was always met with the reply that, as the action of the Native Land Court had stayed Mr. Young's lease and mortgage, he (Ngakapa) had no funds. In November, 1869, I issued a writ against Ngakapa for the £400; he then, seeing that I was in earnest, asked Mr. C. O. Davis to go with him to Mr. D. J. O'Keefe, and to endeavour to obtain the money for him. O'Keefe agreed to lend the required sum on a mortgage to him of a block of land known as Rangiriri, situate in the town of Shortland. The mortgage was completed, and O'Keefe handed to Ngakapa £400, and Ngakapa, in return for O'Keefe's readiness to oblige him, gave him two allotments in the town. Davis and Ngakapa were then about to leave Shortland, and being uncertain whether they should find me in, left the money with O'Keefe for me, and then called at my office and told me what they had done, and desired me to go at once and get the money from O'Keefe and stay proceedings.

I accordingly saw O'Keefe, who put me off from time to time, until at last I heard that he had put in a plea in the Supreme Court to the following effect:—

1. That Ngakapa was not indebted to me in that sum.
2. That Rice intimidated him into signing.
3. That he (Ngakapa) was intoxicated at the time.

All this O'Keefe did without consulting Ngakapa, and without his knowledge, at the same time that he held the mortgage and the £400. When the case was heard in the Supreme Court, I obtained judgment for £400 and costs, to abide the decision of the arbitrator to whose arbitration the whole of my claim was referred by mutual consent. After great delays the award was made in my favour, for the sum of £560 and costs, amounting in all to nearly £1,000. A portion of this amount, being a little more than the legal costs, was paid in 1870, when fearing that I should lose my portion of the amount, I caused the block known as Rangiriri to be seized and sold. At the sale there was a very small attendance . . . . . and the lots were knocked down to Mr. Myer. Ngakapa's cutter was then seized, and sold for £120, and to conclude the business, Ngakapa agreed to mortgage the Wharekawa Block, 16,000 acres for £430.

Through some omission in the Native Land Court Office, the restriction imposed by the 17th section was not inserted in the Crown grant, and the Chief Judge refuses to give up the Crown grant, to obtain which a lawsuit is contemplated. Out of the proceeds of the sale of land, cutter, and mortgage, I received £201.

Ngakapa had to enter an action against O'Keefe to cancel the mortgage (see memorial registered in Land Registry Office, High Street).

My opinion of the Native Land Act is, that it is too cumbrous and costly in its operations to be a benefit to the Native race—not so much where the Court is itself concerned, as in the large amount of other expenses entailed. I am perhaps only entitled to express an opinion on that portion of the Act which has reference to the survey of Native lands; and as a surveyor of some considerable experience, I express my conviction, that it is there the evil most fatal to the Native interest is to be found. The result of my experience has been to show me, that a Native getting his land surveyed for the purpose of acquiring a title through the Court, has taken the first step towards the loss of his property without gaining an equivalent. There are, of course, exceptional cases.

The surveyor well knowing the delays that may occur, and the risk he takes of ultimately losing his money, usually charges more than double what he would charge for a cash transaction. Then there is a very heavy item, namely, surveyor's attendance at the Court, a fair charge for which alone would often amount to more than the value of the land surveyed. After he has done with the surveyor, there are the interpreters and Native agents to get their share.

Another very costly item, and that leads to much useless litigation, is overlapping surveys, which is very easily remedied.

I would, if any suggestion from me would be worth your consideration, give you a sketch of a plan that I have long thought would work better than the present system of surveying Native lands; it would, at any rate, have the effect of reducing surveyors' charges more than one half.

I am afraid the communication will not be of much service to you, but it will at any rate show you how the Native is liable to be swindled.

I have, &c.,

The Hon. Colonel Haultain. R. C. Jordan.

Mr. A. C. Turner to Mr. T. Heale.

Sir,— Tauranga, 20th March, 1871.

I have the honor to inform you that, in the early part of 1867, I was requested by several of the Maketu chiefs to survey certain blocks of land near that place, and declined doing so on account of my not being satisfied about payment. A short time after I was again applied to by these people, and the Native Land Act was produced, where it clearly states that the surveyor can hold a lien upon the land until his account is settled. I undertook the work, relying upon this Act as my security for payment should I fail in obtaining the money in any other way. To carry on these surveys it was necessary for me to borrow money, and to enable me to succeed in this I had to quote the Native Land Act to satisfy the lender that the security was sound; this money was obtained at no less a rate than 12½ per cent. interest.

The blocks surveyed are Papanui, Pukaingateru, Te Rau o Te Huia, and Ohineahuru; the money for these surveys amounts to £350, far too great a sum for me to lose, having a large family to bring up and educate.

So long a time has elapsed since the completion of these surveys (June, 1867) that a number of other surveyors have recently been at work, causing lines to overlap to a great extent, thereby creating

no end of confusion. One block, Pangaroa, surveyed within the last few months, includes two of my old surveys—Papanui and Pukaingateru—following my boundary lines both on the east and west for several miles.

At the last sitting of the Court here, Te Rau o Te Huia Block was called up, but adjourned until a future sitting, on the ground that an internal boundary required to be surveyed. This I told His Honor I would do at once; but he replied, "It is no use, the case cannot be heard;" knowing at the same time that Mr. Mitchell was altering a line upon one of his recent surveys under similar circumstances.

Another of my cases was heard, Pukaingateru, and judgment given in favour of the Tapuika and Ngatimoka Tribes. These people applied to His Honor not to use my plan for making out their certificate of title, although it was used in the Court throughout the whole of the investigation of the case. Owing to this I see but little chance of obtaining my money, and have therefore to appeal to you in the matter, to see what can be done. I feel quite satisfied that difficulties would not have arisen had the investigation of these cases taken place within any reasonable time after the surveys were completed, and before other surveys were made to overlap.

I have therefore respectfully to request that you will endeavour to secure me in some way for the payment of these surveys. I was the first in the field, and the other surveys were not made until recently, with the exception of Captain Goldsmith's; his works joined mine without overlapping in any way.

I may here state that the fact of my having been kept out of this money for so long a time, however small the amount may seem, and paying heavy interest, has been almost my ruin.

I have, &c.,

Theophilus Heale, Esq.,
Inspector of Surveys, Auckland.

A. C. Turner,
Licensed Surveyor.

Referred to His Honor the Chief Judge.

Amongst the many complaints of misconduct and overcharge against surveyors, it is well to see what may happen to a competent and honorable one. These surveys were made four years ago; the maps were excellent in every way, and the charge averaged 8d. per acre. Not only has he never been paid anything, but after seeing his maps made use of by the Court, he finds that the awards are likely to be given on other surveys quite recently made; and so he may most unfairly be deprived of his lien, on the supposed security of which, as he observes, he borrowed the money necessary to carry on the work.

24th March, 1871. Theops. Heale.

Mr. R. C. Jordan to the Hon. Colonel Haultain.

Dear Sir,— Tauranga, 30th June, 1871.

In compliance with my promise, I will proceed to give you, as condensed as possible, my views respecting the Native Land Act, as far as relates to Natives and licensed surveyors.

It appears to me—

1. That the expense of surveys should be materially reduced.
2. That some method should be adopted by which the present numerous overlapping and repeated surveys, and consequent litigation, should be avoided.
3. That the rules relating to surveyors' evidence should be so altered as to admit of compliance on the part of surveyors.
4. That in each Native district there should be some public record of surveyed Native lands, in order to discourage the present Native practice of selling or leasing land several times, by giving those about to expend their capital some possibility of obtaining information.

I imagine it would be possible to obtain the above objects by appointing one licensed surveyor to each district. Such surveyor could then combine some other means of obtaining a livelihood with that of surveying, such as farming, &c.; and become what is almost impossible under the present system of surveying, viz., an useful member of society, instead of, as at present is too often the case, simply an itinerant semi-professional man, making the most out of his client, knowing that his services will not be required again. The surveyor is now obliged to make his charges disproportionately heavy for the service rendered, as he has to risk the loss of capital necessary to perform the work in several ways; at the best, to wait an indefinite and often very long period for payment, the Chief Judge having several times in my hearing requested Natives not to pay for surveys until completed, and at the same time informing them that the survey is not complete until the surveyor's evidence is taken in the Court. I made surveys amounting to nearly £500 in Maketu, in 1867, for which the Natives will not pay me one penny, the claim not yet having been heard.

The chances of total loss are, that some other Native may employ a surveyor to resurvey, or partially so, the same block, and a certificate may be ordered on the second or third survey, total loss ensuing on previous surveys. Then, again, I have known an instance of certain Natives inducing a surveyor to survey a block of land for them; after four years it was passed through the Native Land Court, when the originators of the survey, having proved their title jointly with others, request that the certificate may be ordered in the name of those owners who had not authorized the survey, thus evading payment.

I have also known four surveyors attending a Court, each with a plan of the same piece of land, with some trivial difference, neither of them being aware, until he had commenced his survey, that there had been one previously; of course, one only would be paid. This state of things could not be if each surveyors were confined to one district.

I think it would be a great benefit to the profession, to the Natives, the public, and the Government, were District Surveyors appointed, each to receive a small salary from the Government; their charges for surveys to be according to a fixed scale, regulated by the vegetation, the distance to be travelled, and the size of the block; each surveyor to keep an office, such office to be provided with

certain forms of application for survey, giving the Government security on the land for the cost, or guaranteeing payment by authorizing the sale by auction of portion of the land after a stated time shall have elapsed, payment not having been made.

The Government, by adopting some such plan, would control the cost of surveys; there would always be a surveyor in each district able to give all information respecting Native lands in that district; only one surveyor would be required to attend the sitting of the Court; and by the Native owner giving security to the Government for payment within a stated time, the first steps would be taken towards the Native title being extinguished, through the Government becoming the purchaser at a much smaller cost than is now possible.

I believe myself that it is far better for the interest of the country that the Government should acquire Native lands and dispose of them at a reasonable price to settlers, than for large quantities of Native land to be locked up as they now are, some by speculators, others because the expenses incurred are so enormous that no one would pay them were the Crown grant handed to them in consideration.

This is necessarily an imperfect sketch. It would take more time than I have just now at my disposal to go more definitely into the matter, but there may be some hints useful to you. If so, I shall not have written in vain.

I may add that I have spoken on the subject to many of those surveyors whose experience entitles them to an opinion—Messrs. A. C. Turner, H. Mitchell, Simpson, and others; and they agree with me that some such scheme would be a benefit to all concerned.

I have, &c.,

Colonel T. M. Haultain, Wellington. R. C. Jordan.

Notes of Conversation with Mr. Barstow, R.M.

Bay of Islands, 4th February, 1871.

I have known instances of a licensed interpreter visiting Natives, and persuading them to allow their lands to be surveyed. An arrangement has been made by such interpreter with a surveyor, who pays a handsome bonus for the job. I cannot state whether interpreters have visited the Natives as agents for surveyors, or have sold the job after obtaining the Natives' assent thereto. The Natives are sometimes informed that they will not have to pay for the surveys until the lands have been disposed of, and in this way are induced to bring their lands before the Court; but payment is demanded and pressed at an earlier period, and the owners are worried into parting with their land at a sacrifice to meet the liability. As an instance, Tamati Waka was visited by Charles De Thierry, who urged him to have a block of land called Te Puna, at Kerikeri surveyed, informing him that Patuone, his eldest brother, was anxious that it should be done. Waka was unwilling that it should be done, and refused point blank more than once. De Thierry, however, got the old man's mark to an application for a *panui*, though in all probability the latter did not know what he was signing. And when the receipt of this was acknowledged De Thierry told him that it was an instruction from the Government to have the land quickly surveyed, and that the Chief Judge had written to order him to have the survey proceeded with. He accordingly sent men to point out the boundaries, which had been previously indicated when there was a proposal to purchase the flax on the land.

I informed the surveyor that there would be difficulties in making this survey, because this was a closing block, and there was no doubt that some of the surrounding surveys were incorrect. The block was surveyed nevertheless, and about 16,000 acres were included, only 3,000 of which were not held by Crown grant, and these were surplus lands, from the old land claimants, to which Waka made claim, but the Government agent would not recognize his title; the other 13,000 acres comprised a large block of Mr. Shepherd's, and other lands which had previously been sold to the Government. The Court dismissed the case, but Waka was called on to pay over £300 for the survey. He has not yet paid it, but is liable, as he signed the order for it.

This case shows that it would be well if the Resident Magistrate or other official had authority to prohibit surveys under certain special circumstances.

Mangonui was compelled to sacrifice a block of land at Pungahairi, near Kerikeri, containing over 7,000 acres, for £300. He had applied to Mr. W. H. Clarke to survey it, and paid him £90 during the progress of the work; but Clarke had to wait twelve months for the balance, which was about £60.

If Europeans wish to secure any particular block under the present system, their best plan is to get a surveyor to undertake the work, then induce him to press for payment, and they can get the land from the Native owner on almost any terms by advancing the money. Some Maoris are easily imposed upon by interested individuals, and the Government ought to interfere to give them further protection.

Neither the surveyor nor the interpreter are disinterested parties, and the latter may be fee'd by both sides.

Some of the licensed interpreters are not proper persons to be intrusted with such powers as they now possess. As they are official witnesses to agreements between the Natives and surveyors, they have a power and opportunities that should only be given to men of unquestioned integrity and reputation who ought not to desire any profit beyond the authorized fees, either limit their powers, or be more careful in the selection. A man may be an excellent interpreter, and yet not suited to act in a *quasi*-official character.

Notes of Conversation with Dr. Grace.

The Native owners of Mataikona employed Mr. Carkeek, a surveyor, to get them a tenant for a block of land which they called 80,000 acres, but which proved to be only 18,000. Carkeek was to make the survey, and the tenant was to advance the money for it. He asked 9d. an acre for the survey, although 5d. or 6d. is sufficient, if the country is not difficult. A Native named Karaitiana Te Whakarato was appointed by the others to act as their mouthpiece and agent in the matter, and Dr. Grace was

induced to pay £382 for the survey, which was represented as having been completed, ready for the Court. He insisted that he should have security on the land as a lender according to the Act, but when the case came before the Court, it was found that the survey was not ready, and the case could not be heard. The Natives then tried to repudiate the arrangement, but Dr. Grace showed the agreement with Karaitiana, and demanded further security to the extent of £332 for the completion of the survey, &c.; and after expending £270 more on survey, the block passed though the Court. The Court fees, expenses of witnesses, &c., came to about £80 more, and at least £50 was paid to the interpreter to witness signatures under the Act, &c. He had asked £5 5s. a day, but a contract was made with him. Altogether, £730 was paid for survey and preliminary expenses,—about 10d. an acre.

The rent is £200 a year, but 10 per cent. on the amount advanced is deducted. The Natives wanted to sell a portion of the land to pay this debt off and avoid the interest, but as the owners are numerous, this cannot be done without bringing the land again into Court, and subdividing it; and if it cost upwards of £700 to effect a survey of the outer boundaries, and to pass the one block through the Court, what will it cost to individualize the claims?

There is also one-tenth of the rent, or £20 a year, to be paid to the Government, besides a sum of not more than 6d. an acre, a possible £450, for examining the survey. With such expenses, Native lands are depreciated fully 50 per cent.

No proceedings were taken against the first surveyor for not having completed his work, as the expense and trouble would have been great, and the personal advantage little.

The money the Natives receive does them but little good; they squander it away, and only become more improvident.

The Government should be the only purchaser of Native lands.

STATEMENT of Mr. MAINWARING, Licensed Interpreter, with reference to Surveys.

IN many instances the Natives apply to the Court for investigation of their claims purely as a matter of curiosity; they make loose agreements for the survey of their lands, and when pressed by the surveyors for their money are induced to give promissory notes, which they, poor men, often sell to some money-lender at a considerable discount.

It is the irregularity of payment that obliges the surveyor to demand high payment for his services.

Paul Tuhaere gave O'Meara a promissory note for £110, on account of several surveys at Kaipara. His original bill had been taxed in Court, and reduced from about £300 to this amount. O'Meara sold his promissory note to a money-lender for £75.

Hone Paama, of the Great Barrier, arranged with O'Meara for the survey of their lands at what under ordinary circumstances would be an enormous price, to be paid when passed through the Court. When the cases were called by the Court the Natives objected to their being proceeded with, and they were struck off the list. The surveyor could not get his money, and has now applied to the Supreme Court for redress.

Te Moananui, of the Thames, owes money for surveys for which he has given promissory notes, upon which he has been sued and judgment given against him; but he keeps out of the way at Ohinemuri; and being only one of several grantees, his interest in land is not defined, and if he were brought into Court it would probably be asserted that he had little or no interest in the blocks of which he is the grantee.

EXTRACT from Proceedings of a Court held at the Native Land Court Office, Auckland, on the March, 1871.

PAORA TUHAERE *v.* O'MEARA.

(Assessment of Survey Charges.)

Edward O'Meara (sworn): I am a licensed surveyor. I got Oneonenui surveyed by another licensed surveyor, at Paul's request. I charge 2s. 6d. an acre. That is a fair charge, considering the delays made by Natives. £4 4s. for attendance at Court, these are my attendances for two days. The delays are great, and increase the expense.

By the Court: Was any Native agent concerned in this matter?—Yes.

Was any commission agreed to be given to him?—Yes, every agent gets it.

How much?—Ten per cent. on the sum received.

Order for £49 4s. The original demand was for £112 11s. 6d. for 787 acres.

Wednesday, 22nd March, 1871.

HONE PAAMA *v.* O'MEARA. Settlement of Bill of Survey in Great Barrier Island.

(Extract from Te Marini's Statement, taken by commission by consent.)

TE MARINI affirmed Mr. O'Meara said, "Friend, let the land be surveyed." I answered, "It is not right to survey, because of Captain Heale's survey." They (*i.e.*, R. De Thierry and E. O'Meara) said, "Have it surveyed or the Government will take it. You are merely squatting; if you do not have it surveyed the Government will take it. If we survey it the payment will be very small." I was vexed on account of these sayings, and on account of my being vexed I agreed to have it surveyed. I and Hone Paama said, "We have no money to pay; we have no money whatever." R. De Thierry said, "Never mind how long it is." I was vexed at what they said to me, and I agreed to the survey. We asked, "What would be the payment at the cheap rate?". They said, "5d. per acre." When Frasi returned to Auckland he made the charge of 1s. 6d. per acre. He demanded immediate payment, to pay £100. If those words about the Government had not been stated, I should not have agreed to the survey. If I had been told that the payment would be 1s. 6d. per acre, I should not have agreed to the survey.

Cross-examined by Mr. Sheehan.—O'Meara and R. De Thierry commenced the talk about Maori Pe. They asked us, "Have you no other lands?" We said, "We have land." They said, "Will you not agree to have it surveyed?" I said, "I will not agree." R. De Thierry said, "It will be good to have your lands surveyed, that you may possess it properly." I said, "I do not want it, because Mr. Heale has surveyed it before." R. De Thierry said, "If you do not agree, the Government will take away your land; you are merely squatting; your land will be taken away by the Government; it will be good if we survey it; the payment will be very small—5d. an acre." There were no questions asked as to the size of the land. I am quite certain of this. I was very *pouri* about the saying that the Government would take away the land, and Hone Paama also, and I am *pouri* about it now.

Note.—The witness was cautioned that his statements as to the reasons for commencing the survey, &c., would be contradicted by the surveyor, Mr. De Thierry and others, but he persisted that his statement was correct.

Claim was for £319 17s. 6d.

These cases were withdrawn, for the Natives objected to their being proceeded with, and they were struck off the Court list; so the surveyor could not recover his money.

LISTS of some Native Lands for Sale in the Province of Auckland.

Memorandum for Colonel Haultain, by Mr. Mainwaring.

Bay of Islands.—Waimate, 8,000 acres; title not yet obtained. 2s. 6d. per acre.

Hokianga.—142 acres; grant issued; 10s. per acre.

About 5,000 acres near South Head ——

Kaipara.—400 acres at Aropaoa, including right of lease of large block at rental of £10 per 1,000 acres; grant issued; £1 per acre. 278 acres; grant issued; 12s. per acre 1,420 acres, South Head; grant issued; £1 per acre.

Waikato.—400 acres near Coal Mines; £1 per acre. Lease of islands near Heads. 600 acres near Tuakau; 10s. per acre. 320 acres near Meremere; 10s. per acre. 100 acres near Mangawara, 15s. per acre; and a large number of lots of 50 acres given under the New Zealand Settlement Acts to ex-rebels. Lease of large block near Maungatautari, at present unsafe. A large quantity of land beyond Te Awamutu is also under offer, and may be disposed of as soon as permitted by the King party; Lease of land at Hangawera, estimated at 25,000 acres; £10 per 1,000 acres. 3,272 acres at Te Ao-o-Waikato, for sale at 3s. per acre.

Mercury Bay.—4,000 acres, kauri bush; £1 per acre. (Natives to pay half expense of survey.)

Wangapoua and Coromandel.—Small lots, varying from two to fifty acres, at from 10s. to £5 per acre. Grants issued.

Rotorua.—Large block, title not certain.

Tauranga, Maketu, and Opotiki.—Sundry small lots given on same terms as in Waikato to Natives.

List of Lands for Sale by Richard De Thierry.

260 acres, Raglan. Soil good. 5s. per acre.

193 acres, Raglan. Good water frontage, formerly under Native cultivation. 5s per acre.

291 acres, Raglan. Soil good, and within a short distance of the township; containing a fair supply of flax. 5s. per acre.

1,969 acres, Te Puna, Bay of Islands. Partly flax and ti-tree, with deep water frontage to a fine river; good fern and bush land. 3s. per acre.

20 acres, Banks of the Waikato. Good land, only a short distance from Point Russell. 20s. per acre.

150 acres, Awhitu, Manukau, facing the Harbour. 5s.

400 acres, Wahi Lake, Waikato, near the Coal Mines. Rich soil. 5s. per acre.

325 acres, near Coromandel. Water frontage, sandy beach; land of good quality. 10s. per acre.

112 acres, Kaipara. Frontage to the Wairoa River; good land. 15s. per acre.

65 acres, Waiuku, No. 201. 10s. per acre.

82 acres, Waikato, No. 231. 10s. per acre.

22 acres, Banks of the Waipa, No. 291. 20s. per acre.

If the 82 acres and 22 acres are sold together, 10s. per acre will be taken.

440 acres bush land, principally kauri, on the Wainui Block, at the back of the Wade level land, the greater part could be ploughed, within one mile of Wainui Post Office, and near Hellyer's Bush. 6s. per acre.

A piece of land in the centre of the Township of Coromandel, having a frontage to the main road to the diggings, 118 feet by 555 feet to the Tiki Road, and 118 feet to Kapanga Creek. £150.

For Sale or Lease.

1,500 acres on the Island of Waiheke. Well situated, with water frontage, and well sheltered; sandy beach, and plentiful supply of water. Price 10s. per acre for sale; or lease, £50 per annum.

1000 acres at Waiuku. First-class land; only a short distance from Auckland, either by land or water. Price, 10s. per acre for sale; or lease, £50 per annum.

Native Lands for Sale or Lease by Mr. Wilson.

500 acres at Waikawau, near Tapu Creek. £2 an acre.

244 acres at Wanganui. 5s. an acre.

27 acres at Wanganui. £1 an acre.

2,800 acres at 4s. an acre.

600 acres of flax land near Ohinemuri, for £150; not yet passed through the Court.

About 1,000 acres at Ahuahu, Pukorokoro, Thames, at 5s; not yet surveyed.

2,000 acres, one half forest, near Matamata, at 4s. per acre if Natives pay for survey—or 3s. 6d. if survey is undertaken by purchaser.
12,000 acres of surveyed land in the same district, near Tamahere, for lease at £13 per 1,000 acres, (Natives would take less.)
A run of about 20,000 acres at Maungatautari (not yet surveyed).
20,000 acres of surveyed land near Opotiki, Bay of Plenty; in two blocks. At 10s. per acre.
30,000 acres, unsurveyed, in same district, with totara forest; to be leased at £200 a year.
10,000 acres at Kaituna River, Maketu, for lease (not yet surveyed).
A great deal of land in Ohinemuri would be open for sale, if the Natives could get it through the Court.

STATEMENT of RECEIPTS under the Native Land Act, and of Expenses of the Native Land Court and Survey Department, for the Six Years ended 30th June, 1870.

	1865–66.	1866–67.	1867–68.	1868–69.	1869–70.	Totals.
RECEIPTS.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Duties	284 19 0	1,989 14 0	2,309 16 1	4,945 9 5	4,993 5 7	14,523 4 1
Court Fees	119 0 0	513 7 0	434 5 0	667 8 0	796 16 0	2,530 16 0
License Fees, &c.	...	*61 5 0	270 0 0	135 0 0	105 0 0	571 5 0
	403 19 0	2,564 6 0	3,014 1 1	5,747 17 5	5,895 1 7	17,625 5 1
EXPENSES.						
Native Land Court ... Salaries	2,969 19 7	4,507 19 3	4,350 19 7	4,799 17 4	4,959 18 0	21,588 13 9
Travelling Allowances and Expenses	422 12 0	1,045 0 2	2,066 14 1	1,839 19 0	483 2 6	5,857 7 9
Contingencies	152 10 5	235 10 0	467 13 4	178 5 9	345 8 9	1,379 8 3
Reserved for Liabilities ...	...	...	...	...	400 0 0	400 0 0
	3,545 2 0	5,788 9 5	6,885 7 0	6,818 2 1	6,188 9 3	29,225 9 9
SURVEY DEPARTMENT.						
Salaries	146 15 0	812 7 0	1,627 17 11	2,552 18 4	1,836 15 11	6,976 14 2
Travelling Expenses	...	...	...	183 16 9	54 17 0	238 13 9
Surveys	...	...	490 10 0	656 6 3	51 3 0	1,197 19 3
Contingencies	32 6 8	175 6 9	11 1 6	649 7 1	215 11 5	1,083 13 5
Reserved for Liabilities ...	...	...	...	...	1,000 0 0	1,000 0 0
	179 1 8	987 13 9	2,129 9 5	4,042 8 5	3,158 7 4	10,497 0 7
RECAPITULATION OF EXPENSES.						
Native Land Court	3,545 2 0	5,788 9 5	6,885 7 0	6,818 2 1	6,188 9 3	29,225 9 9
Survey Department	179 1 8	987 13 9	2,129 9 5	4,042 8 5	3,158 7 4	10,497 0 7
Total Expenses	3,724 3 8	6,776 3 2	9,014 16 5	10,860 10 6	9,346 16 7	39,722 10 4

* Refund of salary.

Treasury, 10th June, 1871

C. T. BATKIN,
Paymaster-General and Accountant.

RETURN of PROCEEDINGS of the Native Land Court of New Zealand, from 1st January, 1865, to 31st December, 1870.

PROVINCES.	CLAIMS. Number received.	Number heard.	Number dismissed.	Number adjourned or pending.	Number not called on for hearing.	Number ordered.	CERTIFICATES. Area.	Number issued.	Area.	Number in which Owners have been 10, with other Names registered.	Area.	Quantity of Land reserved, or on which restrictions were recommended.
							A. R. P.		A. R. P.		A. R. P.	A. R. P.
Auckland ...	2873	2430	717	582	443	1099	1307627 3 21	960	965342 3 32	9	35562 3 10	420328 3 0
							Unknown			1	Unknown	
Hawke's Bay	444	424	166	14	20	195	676717 3 21	172	491429 2 25	12	42836 1 0	134414 2 28
						10	Area unknown					Unknown
Wellington	701	630	300	38	71	315	417566 3 36	235	148649 2 29	6	22718 0 0	54979 0 37
Taranaki ...	9	5	5	...	4	...	...	...	...	...	...	...
Nelson ...	39	...	...	...	39	...	...	...	...	...	...	...
Marlborough	32	...	...	...	32	...	...	...	...	...	...	...
Canterbury	53	48	27	...	5	43	5878 1 1	16	4302 1 0	35	7050 0 0	5878 1 1
Otago ...	27	22	7	...	5	93	16019 1 8	78	10571 0 3	20	8252 1 6	16019 1 8
Southland ...	15	6	5	...	9	1	1686 0 0	...	...	1	1686 0 0	1686 0 0
Chatham Is.	42	42	29	...	...	13	190918 0 0	1	15630 0 0	...	...	4100 0 0
Totals ...	4235	3607	1256	634	628	1769	2616414 1 7	1462	1635925 2 9	84	118105 1 16	637406 0 34

LIENS under Section 33, Act 1867

PROVINCES.	Number.	Area.	Lien.	Number of Grants kept back for Surveyors' Liens.
		A. R. P.	£ s. d.	
Auckland	12	4,111 1 2	2,260 0 0	374
Hawke's Bay	...	...	...	88
Wellington	18	35,016 3 33	1,388 3 0	86
	5	Unknown	2,015 19 0	
Taranaki	...	...	...	...
Nelson	...	...	...	...
Marlborough	...	...	...	...
Canterbury	...	...	...	...
Otago	...	...	...	...
Southland	...	...	...	...
Chatham Islands	...	...	...	...
Totals	35	39,128 0 35	5,664 2 0	548

RETURN of FEES.

PROVINCES.	PAID.	UNPAID.	LICENSES.	
			Surveyors.	Interpreters.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Auckland	1,923 10 8	2,149 3 6	...	14 0 0
Hawke's Bay	289 12 6	416 12 0	...	...
Wellington	303 12 0	609 6 0	...	2 0 0
Taranaki	4 19 6	26 0 6	...	1 0 0
Nelson	...	...	...	...
Marlborough	...	...	...	...
Canterbury	3 0 0	101 15 0	...	...
Otago	2 0 0	210 5 0	...	...
Southland	...	4 0 0	...	...
Chatham Islands	41 14 0	...	...	...
Totals	2,568 8 8	3,517 2 0	540 0 0	17 0 0

CLAIMS to SUCCEED and REHEARINGS.

PROVINCES.	CLAIMS TO SUCCEED.						REHEARINGS.	
	Number received.	Number heard.	Number ordered.	Number dismissed.	Number adjourned.	Number not yet called for hearing.	Number applied for.	Number taken place.
Auckland	124	84	44	17	17	40	9	3
Hawke's Bay	57	47	37	7	3	10	7	1
Wellington	11	9	4	3	2	2	15	2
Taranaki	43	42	26	16	...	1	...	...
Nelson	...	...	...	...	...	...	...	...
Marlborough	1	...	...	...	...	1	...	...
Canterbury	11	8	4	...	...	3	4	...
Otago	...	...	...	...	...	...	...	...
Southland	...	...	...	...	...	...	...	...
Chatham Islands ...	...	...	...	...	...	...	...	...
Totals ...	247	190	115	43	22	57	35	6

Rehearing Waihi Block.

(Extract from Proceedings of Native Land Court.)

26th October, 1869.—Application by Te Keepa and others of Ngatikoi for investigation of Waihi, near Katikati.

22nd May, 1870.—Notified in Provincial Government *Gazette*.

October, 1870.—Awarded by the Court to Ngatitamatera.

4th November, 1870.—Application for rehearing by Te Keepa, on the ground of insufficient evidence, and that the assessor fraternized with the Ngatitamatera (he had been seen conversing in the street with their agent Mr. Mackay), and that the Judge told them to shorten their evidence.

10th November, 1870.—That as the Court had given them 15 acres, that proved they had a claim to more.
13th December, 1870.—Ngatitamatera protest against a rehearing.
14th December, 1870.—Rehearing objected to by the Chief Judge.
10th December, 1870.—Application to Chief Judge for rehearing, and a threat that they would be obstinate if it were not granted. Application to the Hon. Native Minister, saying, "We will stick to our land."
18th January, 1871.—Another application to Native Minister.
13th February, 1871.—Another application to Native Minister.
9th March, 1871.—Referred to Native Council—Te Wheoro, Matene Te Whiwhi, and Paora Tuhaere—who object to a rehearing.
16th March, 1871.—Native Council change their opinion, and advise a rehearing.
18th April, 1871.—Mr. Clarke, Civil Commissioner, cannot recommend a rehearing.
25th March, 1871.—Mr. Puckey, Civil Commissioner, cannot recommend a rehearing.

Rehearing refused.

RETURNS from REGISTRARS of DEEDS, showing Quantity &c. of Lands alienated by the Natives, which has passed through Native Lands Court.

N.B.—It is not deemed proper to furnish these returns, as they disclose private transactions between individuals.